

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	3:09CR67
)	MAY 3, 2010
vs)	
)	
ANTHONY L. JINWRIGHT,)	
HARRIET P. JINWRIGHT,)	
)	
Defendants.)	
	/	

VOLUME 18

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE FRANK D. WHITNEY
UNITED STATES DISTRICT

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P R O C E E D I N G S

MONDAY, MAY 3, 2010

(Court called to order at 8:30 a.m. and defendants present in courtroom.)

THE COURT: Good morning. I read the defendant's brief on willful blindness. Is the government submitting anything on willful blindness at this state? Well, you've already --

MR. BROWN: I will add the following: We did not have the opportunity to file a responsive brief but I would simply point out to the Court that the case of *United States v. Martin*, 773 F.2d 579, is a criminal tax case out of the Fourth Circuit, 1985, in which a deliberate ignorance instruction was given.

Most recently on August 18th, 2009, in the case of *United States v. Whitisic*, it's a District Court opinion out of Western District of Virginia, the Court, citing a number of Fourth Circuit cases in the context of a criminal tax case, found a deliberate ignorance or willful blindness instruction was appropriate.

So based on the case law, we submit the instruction is appropriate.

THE COURT: Well, first, as a matter of law, I agree with the government and disagree with the defense. In a tax case willful blindness instruction would seem to be

1 eminently appropriate about the legal issue because the
2 parties did agree and everyone -- no one disputes that.

3 Knowledge of the actual law is critical in a tax
4 case, while in other cases it's not. If a bank robber
5 intends to rob a bank and, in fact, robs the bank, the bank
6 robber doesn't have to know it's a crime to rob a bank; the
7 bank just -- he just needs to intend to rob a bank.

8 Here, if you want to commit tax evasion, you
9 actually have to have actual knowledge of the law.
10 Ignorance of the law is no excuse, and therefore, willful
11 blindness would be entirely appropriate as a matter of law.

12 Mr. Brown cites some cases. I also note a case
13 that I used to cite all the time when I was making the
14 argument he's making, *United States v. Lizotte*,
15 L-I-Z-O-T-T-E, which is a First Circuit case. That was in
16 the context of a *Klein* conspiracy.

17 But that's -- but what I've just told you
18 basically is dicta. Because I thought about this at length
19 over the weekend, and willful blindness doesn't really apply
20 to this set of facts. Willful blindness is deliberate
21 ignorance; here we have deliberate failure to disclose.

22 It's not that the defendants allegedly did not ask
23 Mr. Lancaster and Mr. Dawson what was taxable and what was
24 not taxable, the evidence suggests -- and I believe this
25 would be the government's argument -- that the accountants

1 and CPAs and the financial administrators on the church side
2 told the defendants, either directly or circumstantially,
3 about the taxability of all these issues, then the
4 defendants walled off their personal CPAs, Mr. Lancaster and
5 Mr. Dawson, and would not tell them that they knew already
6 what they were supposed to -- they knew the taxability of
7 certain items and they failed to disclose those items to
8 Mr. Lancaster and Mr. Dawson.

9 So it wasn't deliberate ignorance, it's a core tax
10 evasion. It's failing to disclose, and it's failing to
11 disclose both through their CPAs who were preparing their
12 returns and, thus, to the Internal Revenue Service who
13 received those returns.

14 So I think the government is entirely permitted to
15 argue this -- the mystery of failing to disclose and the
16 gray area of learning something from the CPAs and the
17 accountants and the bookkeepers working from the church and
18 then not -- not disclosing it on the -- to their personal
19 accountants and keeping the two groups of accountants
20 separate.

21 So the government, in essence, is permitted to
22 argue virtually everything you can argue in the context of
23 ignorance and failing to disclose and things like that, but
24 is not cleanly entitled to a willful blindness instruction
25 because the defendants -- the evidence is that the

1 defendants had direct knowledge of these issues and the
2 government will show from a -- you know, the direct
3 knowledge in their argument or has shown it, and it's
4 entirely up to the jury to believe that either the defense's
5 argument that they didn't understand or the government's
6 argument that they were told over and over again.

7 So do you understand what I'm saying, Mr. Brown?
8 You can argue everything that you would probably argue under
9 deliberate ignorance but that's not the essence of your
10 case; it really doesn't fit the facts here.

11 MR. BROWN: Well, I understand what the Court's
12 saying. I would simply -- and I'm trying to pull it up
13 right now. I actually think it is the *Campbell* case but I
14 could be mistaken. I would think the Court will probably
15 know intuitively.

16 I'm confident the law in the Fourth Circuit is
17 that even when there's evidence of direct knowledge, the
18 government is entitled to a deliberate ignorance
19 instruction.

20 THE COURT: Well, I -- that -- that is true. But
21 I don't -- I don't think that's -- I agree with you there.
22 Actual knowledge and deliberate ignorance/willful blindness
23 instruction can go together. But I don't see the facts here
24 really supporting deliberate ignorance; because it wasn't
25 that they didn't sit down with Mr. Lancaster -- the

1 defendants didn't sit down with Mr. Lancaster or Mr. Dawson
2 to ask them questions. They didn't sit down with
3 Mr. Lancaster or Mr. Dawson because they feared the two of
4 them, Mr. Lancaster or Mr. Dawson, would ask them questions
5 the other way back. The questioner would be the
6 accountants, not the defendants. Does that make sense?

7 MR. BROWN: Yes, it does, and I understand what
8 the Court's saying. But I think there's still room to make
9 the argument that Mr. Jinwright was deliberately ignorant,
10 particularly on the question of whether the honorariums or
11 love gifts and outside speaking engagements are income.

12 With respect to Mrs. Jinwright, because we don't
13 have as much direct evidence of knowledge, I think the
14 deliberate ignorance instruction is particularly appropriate
15 with respect to her.

16 What we have -- and I think that's what the Court
17 is relying on -- is Mr. Jinwright's as to what he did or did
18 not do. We don't have that with respect to Mrs. Jinwright.

19 THE COURT: All right, let me go to the defense.

20 I've rejected defense's legal argument that it
21 doesn't apply in a tax case, because it -- it -- it actually
22 seems to apply even more in a tax case where ignorance of
23 the law does not apply. Knowledge of the law is a
24 requirement in a tax case; and when you have educated people
25 on the law -- CPAs Lancaster and Dawson -- and you have the

1 opportunity to inquire of them and you don't. But what
2 Mr. Brown is adding is particularly relevant for
3 Mrs. Jinwright; the direct evidence as to Mrs. Jinwright
4 is -- is -- as to her knowledge is limited. It's a lot of
5 circumstantial evidence but limited direct evidence.

6 Mr. Williams first and then Mr. Tate, since it's
7 Mr. Tate's client.

8 MR. WILLIAMS: Let me leave the facts representing
9 to Mr. Tate. Simply state on the general theory level that
10 *Cheek* requires actual subjective knowledge. The trouble
11 with a willful blindness instruction is that it --

12 THE COURT: Wait. Wait. Wait. Who has the
13 burden of a good faith defense in *Cheek*? You do, right?

14 MR. WILLIAMS: We've -- we've argued the
15 metaphysics of that a bit.

16 THE COURT: Yeah. But I mean, it's not -- the
17 government doesn't have to disprove a good faith reliance,
18 does it? So when you rely on *Chief* --

19 MR. WILLIAMS: When all -- when all is said and
20 done the government has the burden of proof beyond a
21 reasonable doubt all the elements of the offense including
22 which was done willfully.

23 THE COURT: All right. But who has the burden of
24 a good -- does the government have the burden of overcoming
25 a good faith allegation or does the defense have to make a

1 showing of a good faith defense?

2 MR. WILLIAMS: I -- I think in this case we have
3 made a showing --

4 THE COURT: I -- I know. But that's the point.
5 You're -- you can't -- if you agree that you have the burden
6 of showing a good faith defense -- and I'm not saying you
7 haven't, I think you have made that showing -- that has --
8 *Cheek* has nothing to do with willful blindness because
9 willful blindness goes to the government's showing of
10 willfulness.

11 MR. WILLIAMS: When all is said and done --

12 THE COURT: No, I -- no, no, no, no. Answer my
13 question. Answer my specific question.

14 MR. WILLIAMS: I would plead ignorance.

15 THE COURT: No. You are far from being an
16 ignorant individual.

17 MR. HINSON: Your Honor, I -- I -- I hate to step
18 in here with my poor learned colleague but I'm trying to
19 remember the case. There's a fairly well-known case, and
20 it's back in my memory banks, about shifting burden on an
21 affirmative defense. I think the Supreme Court of the
22 United States reversed on a situation where the charge had
23 required an affirmative burden to be met by the defense,
24 and -- but this whole question is Mr. --

25 THE COURT: But that's not -- but that's not at

1 issue here. You've made -- you've made a good faith
2 showing. You have that. And so you've done that.

3 MR. HINSON: Well, and that's -- that's what I'm
4 referring to. I think as I understand the burden for
5 affirmative defenses in criminal cases based on that case
6 that I'm struggling to remember the name of, and I think it
7 had to do with self-defense; that the government basically,
8 once a -- once a good faith showing is made, the burden
9 shifts to the government.

10 THE COURT: Yeah. I agree with you. I agree with
11 you. Now you've gotten all the instructions you want with
12 regard to subjectivity of knowledge and good faith reliance.
13 But that's -- but you can't -- what I'm saying is you can't
14 use *Cheek* to keep the government from arguing its facts.
15 Because the government -- because *Cheek* -- because willful
16 blindness, willful blindness is actual knowledge as you make
17 clear in your pleading. Willful blindness is not negligence
18 or recklessness, it is actual knowledge.

19 And I am convinced, and just -- just have to leave
20 it at this, Mr. Williams. The government's right. Willful
21 blindness can be applicable in a tax case particularly with
22 regard to the knowledge of the law, since the knowledge of
23 the law is a requirement of both tax evasion and falsified
24 returns. You can't -- and -- and it's a question of why
25 this doesn't apply to this set of facts.

1 And quite honestly, I had not thought about
2 Mrs. Jinwright. I had been thinking over the weekend about
3 Mr. Jinwright.

4 Mrs. Jinwright, because she didn't take the stand,
5 there is not the same type of issue between the jury of who
6 to believe who not to believe. It is more your classic the
7 government has the burden of proof, has to meet the evidence
8 to sustain that burden; and failing to do that, the
9 defendant should be acquitted. While in the case I think
10 Bishop Jinwright, the jurors have a credibility battle who
11 to believe.

12 So it really is -- it really is an issue as to
13 willful blindness for Pastor, or Mrs. Jinwright.

14 MR. TATE: Your Honor, we formally move to adopt
15 the ALJ's motion to preclude the defense -- preclude the
16 instruction. And additional argument would be that in order
17 to have a deliberate ignorance instruction, there should be
18 some evidence of deliberate ignorance; and our position
19 would be there's no such evidence in this case.

20 THE COURT: What about CPA Dawson's testimony that
21 everything was delivered at the last minute and he was
22 making phone calls and -- and it just -- it was given to
23 him; he could barely get it done. Isn't that circumstantial
24 that there was -- trying to avoid interaction between a CPA
25 and Pastor Jinwright, who was delivering all the documents.

1 MR. TATE: No. To me, it suggests that there was
2 two busy people at a busy tax time.

3 THE COURT: Well, that's a good argument. I agree
4 that's a very good argument.

5 MR. TATE: Thank you.

6 THE COURT: Mr. Brown, you caught me on
7 Mrs. Jinwright. I had not -- I honestly had not thought
8 about her. So anything -- any more facts you want to elicit
9 with regard to Mrs. Jinwright or you want to put on the
10 record?

11 MR. BROWN: No, Your Honor. Just -- I would add
12 this. Again, I don't want the Court to think I'm only
13 relying on the deliberate ignorance instruction for
14 Mrs. Jinwright.

15 Again, I think it's appropriate within this
16 context, and as I understand the law in the Fourth Circuit,
17 as long as there is some basis for suggesting that the
18 defendant closed his or her eyes to what would be obvious,
19 then the instruction is appropriate.

20 With respect to the honorariums in particular,
21 there are Form W-9 and Forms 1099 out there, and yet were
22 referred to a number of witnesses --

23 THE COURT: See, one of the problems I have with
24 the honorariums with Bishop Jinwright is he did allegedly
25 disclose some of them. Because you look at the tax return

1 and A. L. Jinwright Ministries had some revenue. And I
2 don't know any other source of that revenue but some of
3 those love offerings.

4 But I presume the government's offering -- I can't
5 presume -- you know, I can't say this is exactly what you're
6 going to argue; but it seems reasonable to me you were going
7 to argue that he reported \$5,000 in love offerings in one
8 year but he actually had \$100,000 of love offerings in one
9 year. Isn't that -- I mean, where -- what other source of
10 revenue for A.L. Jinwright Ministries was there but love
11 offerings? Oh, for books, I guess.

12 MR. BROWN: I think essentially that's correct.
13 We would suggest it was just the love offerings and the
14 honorariums.

15 But again, what we've heard from a number of
16 witnesses mostly on cross-examination is that there was some
17 general confusion out there which would give rise to the
18 good faith defense.

19 That's the only point I was going to make is that
20 there's a Fifth Circuit case from 2009 that says that the
21 deliberate ignorance instruction is directly applicable to a
22 good faith defense but when the defendant asserts he didn't
23 understand the law, then evidence that challenges the
24 sincerity of that belief, including evidence that he closed
25 his eyes to what should have been obvious to him, is

1 appropriate.

2 THE COURT: All right. Okay. I am convinced as
3 to Pastor Jinwright the instruction is appropriate and,
4 therefore, should be included. There isn't a reason to
5 limit the instruction to one -- one defendant over the other
6 because I think that actually would be highly inappropriate,
7 unfair to Pastor Jinwright, to say that there's -- the
8 government has two different ways of proving knowledge
9 against her -- actual -- it is proving actual knowledge, not
10 proving negligence.

11 Now, the next step is I do agree with the defense
12 that we should have some direct affirmative language saying
13 that negligence is not deliberate ignorance. Gross
14 recklessness or recklessness is not deliberate ignorance.
15 So let's go to the defendant's brief.

16 I would suggest we use what's taken out of the
17 *Campbell* decision for the first paragraph. Actually, I
18 don't have -- Ms. Magee, do you have the most recent copy of
19 instructions? I don't have what's been proposed. Do you
20 have a hard copy there? A hard copy of the instructions
21 right now. Everything but the Statute of Limitations and
22 the --

23 (The Court and Ms. Magee confer.)

24 MR. BROWN: Your Honor, with all due respect, I
25 think that any additional language is unnecessary. The

1 deliberate ignorance instruction as drafted specifically
2 provides that: "If you find beyond a reasonable doubt that
3 the defendant acted with or that the defendant's ignorance
4 was solely and entirely the result of a conscious purpose to
5 avoid learning the truth."

6 In other words, there's no room there for any
7 negligence or recklessness. The jury must find beyond a
8 reasonable doubt that the defendant's conduct was solely and
9 entirely the result of a conscious purpose.

10 THE COURT: Well, what I'd like to use is maybe
11 leave that paragraph in and then add on page 6 of the
12 defendant's brief what's been quoted from the *Campbell*
13 decision, it's the middle of the page, "a showing of
14 negligence is not sufficient to support a finding of
15 willfulness or knowledge. Caution, the willfulness
16 blindness charge does not authorize you to find the
17 defendant acted knowingly because she wouldn't have know
18 what was a -- she would have known, which is a reasonable
19 standard, would have known what was occurring; or that in
20 hindsight she should have known what was occurring, or
21 because she was negligent and failed to recognize what was
22 occurring, or even because she was reckless or foolish or
23 failed to recognize what was occurring."

24 Because you're not -- I mean, you're going to
25 argue actual knowledge, then you shouldn't have a fear of

1 putting in negligence or anything like that. Right?

2 MR. BROWN: No, Your Honor.

3 THE COURT: Mr. Williams, I presume -- I know
4 you're objecting to the instruction, but --

5 MR. WILLIAMS: We reserve that exception, but
6 agree that that whole paragraph would be an appropriate
7 insert.

8 THE COURT: All right. Just tailoring it to these
9 facts.

10 MR. WILLIAMS: Taking out the property at 763
11 Sundown.

12 THE COURT: Right.

13 And finally, as to the statute of limitations,
14 five years or six years? That shouldn't be in dispute,
15 right? I didn't see any additional pleadings on it.
16 Statute of limitations back to 2004 or 2003? The government
17 says 2003.

18 MR. HINSON: Mr. Davis tells me that the
19 government's right about that; he looked it up.

20 THE COURT: All right. That's easy. Mr. Tate, I
21 presume you join in on that?

22 MR. TATE: Yes.

23 THE COURT: All right. Ms. Magee said yes. Any
24 more instructions corrections?

25 MR. BROWN: There are minor things but I wanted to

1 make sure we did it for the Court.

2 Page 13 in the paragraph that begins "The final
3 element," the sentence that says "the intent required to
4 prove a conspiracy is simply the intent to impede or impair
5 the ability of the IRS to" actually it should be "perform
6 its function," because this is not a substantive tax case,
7 it is a *Klein* conspiracy.

8 And what is in there now is "correctly ascertain
9 the defendants' true incomes."

10 MS. MAGEE: So what should it say?

11 MR. BROWN: I would strike the words "correctly
12 ascertain the defendants' true incomes" --

13 THE COURT: Right.

14 MR. BROWN: -- and substitute "perform its
15 function."

16 THE COURT: I thought it was "its lawful duties."

17 MR. BROWN: I'm content with either one, Judge.

18 THE COURT: Right. What is -- I'm just trying to
19 recall *United States v. Klein* off the top of my head, but I
20 think it is "the lawful duties of the agency." What is the
21 defense preference? Or what's your suggestion?

22 MR. HINSON: Well, I think the language here is in
23 the indictment on Count One is "defeating the lawful
24 functions." I mean, that's what it say.

25 THE COURT: All right.

1 MR. HINSON: I think the language that's in the
2 Court's instruction is drawn from the -- from the -- perhaps
3 the overt acts. I'm trying to find where it's --

4 THE COURT: Well, "the lawful functions," since
5 that's what was in the indictment.

6 MR. HINSON: That's what's in the indictment.

7 THE COURT: All right.

8 MR. BROWN: That's why I chose that language.

9 THE COURT: I'm sorry. My fault.

10 Okay. Ms. Magee, have you got that?

11 MS. MAGEE: Yes, sir.

12 THE COURT: Next one, Mr. Brown?

13 MR. BROWN: On page 18, we talked about this on
14 Friday night, about the scholarship? I actually over the
15 weekend went back when Ms. Perkins specifically testified
16 that she provided a check for tuition payment to
17 Mrs. Jinwright. Now, I believe the check was still made
18 payable to Mr. Jinwright, but based on her testimony that
19 would mean that we should include Mrs. Jinwright or just the
20 defendants in connection with the scholarship instruction.

21 MR. TATE: My recollection is that she said
22 Mr. Jinwright asked her to involve the scholarship or
23 something like that.

24 THE COURT: Well, that -- if you acknowledge at
25 least that much. I recall what Mr. Brown said. But if you

1 acknowledge that much, that she even had interactions with
2 regards to scholarship payments, that would mean it would
3 apply to her.

4 MR. TATE: I mean we -- we -- we would object on
5 that but we understand.

6 THE COURT: So noted. Okay. So that should be
7 changed to reflect "defendants" rather than just
8 "Bishop Jinwright."

9 MS. MAGEE: And "their daughter's tuition"?

10 THE COURT: "Their daughter's tuition."

11 MR. BROWN: That's all I have.

12 THE COURT: All right. I understand from the
13 court security officer we have 12 of the 13; we don't have
14 all 13 yet. Nonetheless, we won't be starting until about
15 9:10 or 9:15 because I've got to have docket call.

16 MR. WILLIAMS: I assume that the change I
17 suggested Saturday afternoon --

18 THE COURT: Yeah, that's --

19 MR. WILLIAMS: -- totally not required because
20 it's been included?

21 THE COURT: -- that has been included. Mr. Brown
22 said no objection by e-mail.

23 MS. MAGEE: May I just read that to make sure --

24 THE COURT: Right. Ms. Magee is going to read
25 that into the record to make sure we incorporated the e-mail

1 change correctly.

2 MS. MAGEE: I replaced that paragraph, the entire
3 paragraph on page 24, to say -- I didn't refer back to the
4 statute because the statute is not quoted immediately before
5 it like on page 27? It says, "There is a rebuttable
6 presumption that the returns in issue -- at issue in Counts
7 Two through Seven were actually signed by each defendants.
8 In other words, you may infer and find that a tax return
9 was, in fact, signed by the person whose name appears to be
10 signed to it. You are not required, however, to accept any
11 such inference or to make any such finding.

12 "If you find beyond a reasonable doubt from the
13 evidence in the case that the defendant under consideration
14 signed the tax return in question, then you may also draw
15 the inference and may also find, but are not required to
16 find, that the defendant under consideration knew of the
17 contents of the return that the defendant signed."

18 THE COURT: Is that acceptable, Mr. Williams?

19 MR. WILLIAMS: Yes, sir.

20 THE COURT: All right. Then the United States --
21 yes, sir, Mr. Hinson?

22 MR. HINSON: I just wondered if we could get an
23 updated copy of the jury instructions so that --

24 THE COURT: Absolutely. You'll have them by the
25 time we finish the docket call.

1 So United States v. Jinwright will be recessed for
2 15 minutes until about 10 after, and I'll be back out in
3 about three or four minutes for calendar call.

4 (Recessed at 8:58 a.m. in Jinwright case and
5 resumed at 9:21 a.m. as follows:)

6 THE COURT: I just want to inquire of counsel if
7 we should have maybe five- or ten-minute breaks between my
8 instructions and then the government's first part of its
9 closing, then the first defendant's closing? I mean a break
10 between at each one of these for five to ten minutes?
11 Because it's a lot of instructions and argument.

12 MR. HINSON: Your Honor, I think that's a good
13 plan because I agree with you it's a lot to say, and so I
14 would endorse that.

15 THE COURT: Just do a ten-minute break between
16 each of those?

17 MR. HINSON: Yes.

18 MR. TATE: No objection.

19 MR. BROWN: No objection, Your Honor.

20 THE COURT: All right. Then that's what we'll do.
21 So I will be starting on page 5 of the instructions and we
22 will bring the jurors in.

23 (Jury enters courtroom at 9:22 a.m.)

24 THE COURT: Good morning.

25 THE JURY: Good morning.

1 THE COURT: I see many of you brought in cups of
2 coffee and I think that's very prudent. I'm about to give
3 you some very lengthy jury instructions and they are very,
4 very important but they are also tedious, and it's good to
5 have a cup of coffee.

6 As I've told you through all my instructions,
7 please don't take notes. Just read along with me; you can
8 watch your screens and read along with me. You will have a
9 hard copy of these instructions and a digital version of
10 these instructions in the jury room that you can reference.
11 All right.

12 Members of the jury, now that you have heard the
13 evidence and soon will hear the arguments of counsel, I will
14 instruct you as to the law that applies in this case. If
15 any difference appears to you between the law as stated by
16 the attorneys in closing arguments and that stated by me in
17 these instructions, you are to be governed by my
18 instructions.

19 I remind you that it is your duty and your
20 responsibility in this trial to judge the facts in
21 accordance with the law as I instruct you. You may find the
22 facts only from the evidence which I've allowed to be
23 admitted during the trial. You must not consider anything
24 which I've instructed you to disregard; and evidence which I
25 have admitted only for limited purpose you must consider

1 only for that purpose.

2 When you retire for deliberations, you should
3 recall and consider all the instructions that I gave you at
4 the beginning of the trial concerning your role and duties
5 as jurors. In addition, I now want to give you more
6 specific instructions concerning certain testimony and
7 evidence that was received in the course of this trial.

8 At the beginning of the trial I described the
9 charges against the defendants. At this time, the charge
10 against the defendant Anthony Jinwright of making false
11 statements to federal agents is no longer before you. You
12 should not be concerned with or should you speculate about
13 the reason the charge is no longer a part of the trial.

14 Your decision on the facts of this case should not
15 be determined by the number of witnesses testifying for or
16 against a party. You shall consider all the facts and
17 circumstances in evidence to determine which of the
18 witnesses you choose to believe or not believe. You may
19 find the testimony of a smaller number of witnesses on one
20 side is more credible than the testimony of a greater number
21 of witnesses on the other side.

22 The testimony of a witness may be discredited or
23 impeached by showing that he or she previously made
24 statements which are inconsistent with his or her present
25 testimony. The earlier contradictory statements are

1 admissible only to impeach the credibility of witnesses, not
2 to establish the truth of these statements.

3 It is the province of the jury to determine the
4 credibility, if any, to be given the testimony of a witness
5 who has been impeached. If a witness is shown to have
6 knowingly testified falsely concerning any material matter,
7 you have a right to distrust such witness's testimony in
8 other particulars; and you may receive all the testimony --
9 excuse me. You may reject all the testimony of that witness
10 or give it such credibility as you may think it deserves.

11 You have heard witnesses who have testified as to
12 both defendant Anthony L. Jinwright's and Harriet P.
13 Jinwright's good reputation in the community. This
14 testimony is not to be taken by you as the witness's opinion
15 as to whether the defendants are guilty or not guilty. That
16 question is alone for you to determine. You should however
17 consider this character evidence together with all the other
18 facts and all the other evidence in the case in determining
19 whether defendant Mr. Jinwright or defendant Mrs. Jinwright
20 is guilty or not guilty of the charges.

21 Such character evidence alone may indicate to you
22 that it is improbable that a person of good reputation would
23 commit the offense or offenses charged. Accordingly, if
24 after considering the question of the defendant's good
25 reputation you find that a reasonable doubt has been

1 created, you must acquit him or her of all the charges.

2 On the other hand, if after considering all the
3 evidence, including that of both defendants Mr. and
4 Mrs. Jinwright's reputation, you are satisfied beyond a
5 reasonable doubt that one or the other defendant is guilty,
6 you should not acquit him or her merely because you believe
7 he or she is of good reputation.

8 You have heard from law enforcement officers and
9 other government agents in this case. Because a particular
10 witness may be a law enforcement officer or an employee of
11 another government agency does not mean that his or her
12 testimony is deserving of any special consideration or any
13 greater weight than that of any other witness's testimony.
14 You may judge the credibility of all the witnesses,
15 including government employees, and consider their interest,
16 if any, in determining the weight to be given to their
17 testimony.

18 Furthermore, it's quite legitimate for counsel to
19 attack or question the credibility of any government
20 employee on the grounds that his or her testimony may be
21 governed by the professional or -- personal or professional
22 interest in the outcome of this case.

23 You have heard the testimony of a witness who has
24 testified under a grant of immunity from this Court. What
25 this means is that the testimony of the witness may not be

1 used against her in any criminal case except for a
2 prosecution for perjury, giving a false statement, or
3 otherwise failing to comply with the immunity order of this
4 Court.

5 Your are instructed that the government is
6 entitled to call as a witness a person who has been granted
7 immunity by order of this Court and that you may convict the
8 defendant on the basis of such a witness's testimony alone
9 if you find the testimony proves the defendant guilty beyond
10 a reasonable doubt. However, the testimony of a witness who
11 has been granted immunity should be immunized by you with
12 greater care than the testimony of an ordinary witness. You
13 should scrutinize it closely to determine whether or not it
14 is colored in such a way as to place guilt upon the
15 defendant in order to further the witness's own interest.
16 For such a witness, confronted with the realization that she
17 can win her own freedom by helping to convict another, has a
18 motive to falsify her testimony. Such testimony should be
19 scrutinized by you with great care and you should act upon
20 it with caution. If you believe it to be true and determine
21 to accept the testimony, you may give it such weight, if
22 any, as you believe it deserves.

23 You are instructed that you are to draw no
24 conclusions or inferences of any kind about the guilt of the
25 defendants on trial from the mere fact that the

1 prosecution -- that a prosecution witness was immunized from
2 prosecution. Immunization may not be used by you in any way
3 as evidence against the defendants on trial here.

4 Certain charts and summaries have been introduced
5 during the trial of this case for the purpose of explaining
6 or summarizing testimony of other witnesses and other
7 documents admitted into evidence. The summaries do not
8 independently establish proof of any of the facts. If they
9 do not correctly reflect the facts or evidence on which they
10 are based, you should disregard these charts and summaries
11 and determine the facts from the underlying evidence. If
12 you find, however, that the charts and summaries accurately
13 reflect the underlying evidence, you may consider them as
14 you would other evidence and give them such weight or
15 importance as you believe they deserve.

16 The defendant Harriet P. Jinwright has elected not
17 to testify in this case. The Court instructs you she has a
18 constitutional right not to take the stand and testify and
19 not to speak at all or offer any evidence, the burden of
20 proof being entirely upon the United States, on the
21 government. You must draw no adverse inferences of any kind
22 from her exercise of her privilege not to testify. This
23 right is a fundamental one in America's criminal law, one
24 which cannot be disregarded by the jury at its pleasure.

25 Defendant Anthony L. Jinwright has elected to

1 testify on his own behalf. I instruct you that you are to
2 consider his testimony as you would any other witness in
3 this case.

4 You are here to decide whether the government has
5 proven beyond a reasonable doubt that defendants are guilty
6 of the crimes charged. A defendant is not on trial for any
7 act, conduct, or offense not alleged in the indictment. Nor
8 are you concerned with the guilt any other person or persons
9 not on trial as a defendant in this case.

10 A separate crime is charged against one or more of
11 the defendants in each count of the indictment. Each count
12 and the evidence pertaining to it should be considered
13 separately. The case of each defendant should be considered
14 separately and individually as to each defendant.

15 The fact that you may find one or more of the
16 accused guilty or not guilty of any of the crimes charged
17 should not control your verdict as to any other crime or any
18 other defendant. You must give separate consideration of
19 the evidence as to each defendant.

20 During the trial evidence was introduced
21 concerning the mortgage applications and tax returns filed
22 by defendants in years outside the dates charged in the
23 indictment. Additionally, you have heard or received
24 evidence regarding the internal business governance of the
25 Greater Salem Church and/or Salem Baptist Church, including

1 the manner of presentation of annual budgets to its
2 congregation, preparation of budgets, its records
3 maintenance or bookkeeping, the manner in which it collects
4 offerings and how it spends its funds, as well as evidence
5 regarding how the determined salaries of the defendants and
6 how defendants personally spent their money.

7 I hereby instruct you the defendants are not on
8 trial with respect to the identified evidence introduced
9 either through documents and/or testimony or for any other
10 act, conduct or offense not alleged in the indictment. You
11 may consider this evidence only for the limited purpose of
12 deciding:

13 1. Whether defendants had the state of mind or
14 intent necessary to commit the crimes charged in the
15 indictment; or

16 2. Whether the defendants had a motive or the
17 opportunity to commit the crimes charged in the indictment;
18 or

19 3. Whether the defendants acted according to a
20 plan or in preparation for the commission of a crime; or

21 4. Whether the defendants committed the acts he
22 or she -- whether the defendants committed the act for which
23 he or she is on trial for by accident or mistake.

24 Remember, these are the only purposes for which
25 you may consider the identified evidence. Even if you find

1 that defendants may have committed the acts identified by
2 the identified evidence, this is not to be considered as
3 evidence of character to support an inference that the
4 defendants committed the acts charged in this case.

5 You will note that the indictment charges that the
6 offenses were committed, quote, "on or about, "close quote,
7 a certain date or dates.

8 The proof need not establish with certainty the
9 exact date of the alleged offense. It is sufficient if the
10 evidence in the case establishes beyond a reasonable doubt
11 that the offense in question was committed on a date
12 reasonably near the date alleged.

13 Every defendant in a criminal case is presumed to
14 be innocent, and this presumption continues throughout the
15 course of trial. This presumption will end only if you
16 arrive unanimously at the conclusion, if you do, that the
17 government has proven each of the essential elements of the
18 crimes charged in the indictment beyond a reasonable doubt.
19 The term "beyond a reasonable doubt" means just what it
20 says. It is doubt of a defendant's guilt based on reason
21 and common sense and I will not attempt to define the term
22 further.

23 The punishment provided by law for the offenses
24 charged in the indictment should there be a verdict of
25 guilty on any of the offenses is a matter exclusively within

1 the province of the Court. You should not consider
2 punishment in any way in arriving at an impartial verdict as
3 to the guilt or innocence of the accused.

4 I will now instruct you about the statutes and
5 other law applicable to the criminal conduct alleged in the
6 indictment.

7 Count One of the indictment charges both
8 defendants with conspiracy to defraud the United States
9 government, in violation of Title 18, United States Code,
10 Section 371. I will now read to you Count One. Then I'll
11 read the statute the defendants are charged with violating.
12 Finally, I will tell you the essential elements of this
13 crime. You should keep in mind as I review this chart you
14 will have a copy of the Bill of Indictment and these jury
15 instructions with you in the jury room during deliberations.
16 It will not be necessary for you to try to memorize the
17 charge or take notes. I remind you that the Bill of
18 Indictment is not evidence.

19 Count One reads: Paragraphs 1 through 34 of the
20 introduction to this Bill of Indictment are realleged and
21 incorporated by reference herein.

22 From on or about October 15, 2002, through on or
23 about October 20th, 2008, in Mecklenburg County within the
24 Western District of North Carolina and elsewhere, the
25 defendants, Anthony L. Jinwright and Harriet P. Jinwright,

1 knowingly and willfully combined, conspired, confederated
2 and agreed with each other and with others both known and
3 unknown to the grand jury to defraud the United States of
4 America by impeding, impairing, obstructing and defeating
5 the lawful functions of the Internal Revenue Service of the
6 Department of Treasury of United States in the
7 ascertainment, computation, assessment and collection of the
8 revenue, to wit: income taxes. And in furtherance thereof,
9 did commit or cause the commission of at least one overt act
10 in the Western District of North Carolina as set forth in
11 the paragraphs 1 through 34 above, all in violation of Title
12 18, United States Code, Section 371.

13 The relevant statute on this subject is Title 18,
14 United States Code, Section 371, which provides, quote: "If
15 two or more persons conspire to defraud the United States or
16 any agency thereof in any manner or for any purpose, and one
17 or more of such persons do any act to effect the object of
18 the conspiracy, each shall be guilty of an offense against
19 the United States." Close quote.

20 The government must prove each of the following
21 elements beyond a reasonable doubt in order to sustain its
22 burden of proving the defendant guilty. In order for you to
23 find either one of the defendants guilty of the charge
24 contained, the government must prove each of the following
25 essential elements beyond a reasonable doubt as to the

1 defendant under consideration.

2 I think we just repeated ourselves there.

3 1. The existence of an agreement between two or
4 more persons to accomplish a common and unlawful plan.

5 2. At some point during the existence or life of
6 the conspiracy, agreement or understanding, one of its
7 alleged members knowingly performed one of the overt acts
8 charged in the indictment in order to further or advance the
9 purpose of the agreement.

10 3. At some time during the existence or life of
11 the conspiracy, agreement or understanding, the defendant
12 under consideration knew the purpose of the agreement and
13 then deliberately joined the conspiracy, agreement or
14 understanding. And

15 4. The defendant under consideration did such act
16 knowingly, intentionally and willfully and joined the
17 conspiracy with the intent to defraud the United States.

18 I shall define certain terms used in the essential
19 elements. You are to apply these definitions as you
20 consider the evidence. If I do not define certain words,
21 you will assign to them their ordinary, everyday meanings.

22 A criminal conspiracy is an agreement or a mutual
23 understanding knowingly made or knowingly entered into by at
24 least two people to violate the law by some joint or common
25 plan or course of action. Conspiracy in a very true sense

1 is a partnership in crime.

2 A conspiracy or agreement to violate the law, like
3 any other kind of agreement or understanding, need not be
4 formal, written, or even expressed in every detail.

5 To prove the existence of a conspiracy or an
6 illegal agreement, the government is not required to produce
7 a written contract between the parties or even produce
8 evidence of an expressed oral agreement spelling out all the
9 details of the understanding. To prove that a conspiracy
10 existed, the government is not required to show that all of
11 the parties -- or, excuse me -- all of the people named in
12 the indictment as members of the conspiracy were, in fact,
13 parties to the agreement, or that all the members of the
14 alleged conspiracy were named or charged, or that all of
15 people whom the evidence shows were actually members of the
16 conspiracy agreed to all of the means or methods set out in
17 the indictment.

18 The government must prove that the defendant under
19 consideration and at least one other person knowingly and
20 deliberately arrived at some type of agreement or
21 understanding that they, and perhaps others, would defraud
22 the United States by means of some common plan or course of
23 action as alleged in Count One of the indictment.

24 Before the jury may find that a defendant became a
25 member of a conspiracy, the government must prove beyond a

1 reasonable doubt that the defendant under consideration knew
2 the purpose or goal of the agreement or understanding and
3 deliberately entered into the agreement intending in some
4 way to accomplish the goal or purpose by this common plan or
5 joint action.

6 A defendant's relationship with other members of
7 the conspiracy may be considered in determining the
8 agreement existed. Circumstantial evidence tending to prove
9 a conspiracy may consist of the defendant's relationship
10 with other members of the conspiracy, the length of this
11 association, the defendant's attitude and conduct, and the
12 nature of the conspiracy. And it is no defense to a
13 conspiracy that an individual's role in the conspiracy is
14 minor.

15 Once the existence of the conspiracy is
16 established, evidence establishing beyond a reasonable doubt
17 the connection of the defendant with the conspiracy, even
18 though the connection is slight, is sufficient to convict
19 him or her with knowing participation in the conspiracy.

20 It is proof of this conscious understanding and
21 deliberate agreement by the alleged members that should be
22 central to your understanding of the charge of conspiracy.

23 If the evidence establishes beyond a reasonable
24 doubt that the defendant under consideration knowingly and
25 deliberately entered into an agreement to defraud the United

1 States, the fact that the defendant did not join the
2 agreement at its beginning, did not know all of the details
3 of the agreement, did not participate in each act of the
4 agreement, or did not play a major role in accomplishing the
5 unlawful goal is not important to your decision regarding
6 membership in the conspiracy. Merely associating with
7 others and discussing common goals, mere similarity of
8 conduct between or among such persons, merely being present
9 at a place where a crime takes place or discussed, or even
10 knowing about criminal conduct does not by itself make
11 someone a member of a conspiracy or a conspirator.

12 Evidence has been received in this case that
13 certain persons have done or said things during the
14 existence or life of the alleged conspiracy in order to
15 further or advance its goal. Such acts or statements of
16 these other individuals may be considered by you in
17 determining whether the government has proven the charges in
18 Count One of the indictment against the defendant under
19 consideration. Since these acts may have been performed,
20 these statements may have been made outside of the presence
21 of the defendants and even done or said without the
22 defendants' knowledge, these acts or statements should be
23 examined with particular care by you before considering them
24 against defendants who did not do the particular act or make
25 the particular statement.

1 In order to sustain its burden of proof on Count
2 One of the indictment, the government must prove beyond a
3 reasonable doubt that one of the members to the agreement
4 knowingly performed at least one overt act and that this
5 overt act was performed during the existence of -- excuse
6 me -- during the existence or life of the conspiracy and was
7 done to somehow further the goal of the conspiracy or
8 agreement.

9 The term "overt act" means some type of outward
10 objective action performed by one of the parties to or one
11 of the members of the agreement or conspiracy which advances
12 that agreement.

13 Although you must unanimously agree that the same
14 overt act was committed, the government is not required to
15 prove more than one of the overt acts charged. The overt
16 act may, but for the alleged illegal agreement, appear
17 totally innocent and legal.

18 There is a limit on how much time the government
19 has to obtain an indictment. This is called the Statute of
20 Limitations. For you to return a guilty verdict on a
21 conspiracy charge the government must convince you beyond a
22 reasonable doubt that at least one overt act was committed
23 for the purpose of advancing or helping the conspiracy after
24 September 16, 2003. I instruct you that as a matter of law
25 the Statute of Limitations is only relevant to your

1 consideration of an overt act in Count One of the
2 indictment, which is a conspiracy charge, and you should not
3 consider any statute of limitation issues for any of the
4 other charges in the indictment.

5 The final element that the government must prove
6 beyond a reasonable doubt is that the defendant under
7 consideration knowingly, intentionally, and willfully joined
8 the conspiracy with the intent to defraud the United States.
9 The intent required to prove a conspiracy is simply the
10 intent to impede or impair the ability of the Internal
11 Revenue Service to perform its lawful function. As noted
12 above, proof of the requisite intent may be established
13 entirely by circumstantial evidence.

14 Now, the word "knowingly" as used in the crime
15 charged refers to an act done voluntarily and purposely and
16 not because of mistake, accident or other innocent reason.

17 "Willfully" means voluntary and intentional.

18 As to the word "intent," a person who knowingly
19 does an act which the law forbids intending either to
20 disobey or to disregard the law may be found to act with
21 intent. Intent is an act or emotion of the mind seldom if
22 ever capable of direct or positive proof. But in
23 determining intent you may consider any statement made, any
24 act done or admitted by the defendant, any law which
25 justifies the act, and all other facts and circumstances in

1 evidence which indicate his or her state of mind. You may
2 consider it reasonable to find a person intends the natural
3 and probable consequences of acts knowingly done or
4 knowingly omitted.

5 In determining whether the defendants acted
6 knowingly, you may consider whether the defendant
7 deliberately closed his or her eyes to what would otherwise
8 have been obvious to him or her. If you find beyond a
9 reasonable doubt that the defendant acted with or that
10 defendant's ignorance was solely and entirely the result of
11 a conscious purpose to avoid learning the truth, then this
12 element may be satisfied.

13 A person who attempts to cheat the justice system
14 by consciously preserving a lack of actual knowledge of a
15 subjectively obvious fact is just as culpable as a person
16 who has actual knowledge of that fact.

17 A showing of negligence is not sufficient to
18 support a finding of willfulness or knowledge. I caution
19 you that the willful blindness charge does not authorize you
20 to find that the defendants acted knowingly because they
21 should have known what was occurring, or that in the
22 exercise of hindsight they should have known what was
23 occurring, or because they were negligent in failing to
24 recognize what was occurring, or even because they were
25 reckless or foolish in failing to recognize what was

1 occurring. Instead, the government must prove beyond a
2 reasonable doubt that the defendants purposely and
3 deliberately contrived to avoid learning all of the facts.

4 If you find that the defendants were aware of a
5 high probability that a conspiracy agreement or
6 understanding to defraud existed positively or tacitly and
7 that the defendants acted with deliberate disregard to these
8 facts, you may find that the defendants acted knowingly.
9 However, if you find the defendants actually believed that
10 there was not a conspiracy agreement or understanding to
11 defraud, positively or tacitly, you may not -- he or she may
12 not be convicted.

13 It is entirely up to you whether you find that a
14 defendant deliberately closed his or her eyes and any
15 inferences to be drawn from the evidence on this issue.

16 Therefore, members of the jury, considering this
17 charge separately from the others and considering each
18 defendant separately, I charge you that if you find from the
19 evidence beyond a reasonable doubt that two or more persons
20 entered an agreement to try to accomplish a common and
21 unlawful plan, that at some time during the existence or
22 life of the conspiracy agreement or understanding one of its
23 alleged members knowingly performed one of the overt acts
24 charged in the indictment in order to further or advance the
25 purpose of the agreement, that at some time during the

1 existence or life of the conspiracy, agreement or
2 understanding the defendant under consideration knew the
3 purpose of the agreement and then deliberately joined the
4 conspiracy, agreement or understanding, and that all such
5 acts were done knowingly, intentionally and willfully with
6 the intent to defraud the United States, it will be your duty
7 to return a verdict of guilty as charged.

8 However, if you do not so find, or if you have a
9 reasonable doubt as to one or more of the essential elements
10 of the crime charged, it will be your duty to give the
11 defendant under consideration the benefit of that doubt and
12 return a verdict of not guilty.

13 Counts Two, Three, Four, Five, Six and Seven of
14 the indictment charge both defendants with six separate
15 instances of attempting to evade or defeat a large part of
16 the income tax due and owing by them for the calendar years
17 2002, 2003, 2004, 2005, 2006 and 2007, in violation of Title
18 26, United States Code, Section 7201 and Title 18,
19 United States Code, Section 2.

20 I will now read to you Count Two. Then I will
21 read the statutes that the defendants are charged with
22 violating. Finally, I will tell you the essential elements
23 of this crime. I remind you, the Bill of Indictment is not
24 evidence.

25 Count Two reads: Paragraphs 1 through 34 of the

1 introduction to the Bill of Indictment are realleged and
2 incorporated by reference herein.

3 On or about August 30th, 2004, in Mecklenburg
4 County within the Western District of North Carolina and
5 elsewhere, aided and abetted by others known and unknown to
6 grand jury, the defendants, Anthony L. Jinwright and Harriet
7 P. Jinwright, residents of Charlotte, North Carolina who
8 during the calendar year 2002 were married, did willfully
9 attempt to evade and defeat a large part of the income tax
10 due and owing by them and to the United States of America
11 for the calendar year 2002 by preparing and causing to be
12 prepared and by signing and causing to be signed a false and
13 fraudulent Joint U. S. Individual Income Tax Return, Form
14 1040, on behalf of themselves which was filed with the
15 Internal Revenue Service wherein it was stated that their
16 joint taxable income for said calendar year was a sum of
17 zero dollars when the amount of tax due and owing thereunder
18 was a sum of \$16,557.

19 Whereas as they then and there well knew and
20 believed that their joint taxable income for the said
21 calendar year was \$87,193, upon which joint taxable income
22 there was owing to the United States of America an income
23 tax of \$38,795, all in violation of Title 26, United States
24 Code, Section 7201, and Title 18, United States Code,
25 Section 2.

1 Each of Counts Two through Seven charge the same
2 offense, attempted tax evasion, for the years 2002 through
3 2007. The only difference between the counts are the year,
4 the amount of reported taxable income and tax, the amount of
5 alleged correct taxable income and tax.

6 I will now read the remaining counts; but you
7 should consider each of following instructions on each of
8 these counts.

9 Count Three reads: Paragraphs 1 through 34 of the
10 introduction to this Bill of Indictment are realleged and
11 incorporated by reference herein.

12 On or about August 30th, 2004, in Mecklenburg
13 County and within the Western District of North Carolina and
14 elsewhere, aided and abetted by others known and unknown to
15 the agreement, the defendants, Anthony L. Jinwright and
16 Harriet P. -- one moment.

17 (The Court confers with the law clerk.)

18 Excuse me. I said the defendants Anthony L.
19 Jinwright and Harriet P. Jinwright, residents of Charlotte,
20 North Carolina, who during the calendar year 2003 were
21 married, did willfully attempt to evade and defeat a large
22 part of the income tax due and owing by them to the United
23 States of America for the calendar year 2003 by preparing
24 and causing to be prepared, and by signing and causing to be
25 signed a false and fraudulent Joint U.S. Individual Income

1 Tax, Form 1040, on behalf of themselves which was filed with
2 the Internal Revenue Service wherein it was stated that
3 their joint taxable income for said calendar year was a sum
4 of zero dollars and the amount of tax due and owing thereon
5 was the sum of \$15,921.

6 Whereas, they then and there well knew and
7 believed that their joint taxable income for the said
8 calendar year was \$185,306, upon which joint taxable income
9 there was owing to the United States of America an income
10 tax of \$70,275, all in violation of Title 26, United States
11 Code, Section 7201, and Title 18, United States Code,
12 Section 2.

13 Count Four reads -- and I know it sets the
14 instructions out. I wasn't going to read you these but I
15 think it's appropriate I do read them to you, even though
16 you understand or I've already explained to you the
17 differences in each count.

18 Paragraphs 1 through 34 of the introduction to
19 this Bill of Indictment are realleged and incorporated by
20 reference herein.

21 On or about October 20, 2005, in Mecklenburg
22 County, within the Western District of North Carolina and
23 elsewhere, aided and abetted by others known and unknown to
24 the grand jury, the defendants, Anthony L. Jinwright and
25 Harriet P. Jinwright, residents of Charlotte, North

1 Carolina, and during the calendar year 2004 were married,
2 did willfully attempt to evade and defeat a large part of
3 the income tax due and owing by them to the United States of
4 America for the calendar year 2004 by preparing and causing
5 to be prepared, and by signing and causing to be signed a
6 false and fraudulent Joint U.S. Individual Tax Return, Form
7 1040 on behalf of themselves which was filed with the
8 Internal Revenue Service wherein it was stated that their
9 joint taxable income for the said calendar year was the sum
10 of zero dollars, and that the amount of tax due and owing
11 thereon was the sum of \$15,963.

12 Whereas, they then -- he -- it says "he then and
13 there well knew and believed," but I think we know that
14 means "they," but the word is "he," and if you consider it
15 that proper, that's your decision. He then and there well
16 knew and believed their joint taxable income for said
17 calendar year was \$232,232 upon which joint taxable income
18 there was owing to the United States of America an income
19 tax of \$86,636, all in violation of Title 26,
20 United States Code, Section 7201, and Title 18, United
21 States Code, Section 2.

22 Count Five reads: Paragraph 1 through 34 of the
23 introduction to the Bill of Indictment are realleged and
24 incorporated by reference herein.

25 On or about October 15, 2006, in Mecklenburg

1 County and within the Western District of North Carolina and
2 elsewhere, aided and abetted by others known and unknown to
3 the grand jury, the defendants, Anthony L. Jinwright and
4 Harriet P. Jinwright, residents of Charlotte, North Carolina
5 who during the calendar year 2005 were married, did
6 willfully attempt to evade and defeat a large part of the
7 income tax due and owing by them to the United States of
8 America for the calendar year 2005 by preparing and causing
9 to be prepared and by signing and causing to be signed a
10 false and fraudulent Joint U.S. Individual Income Tax
11 Return, Form 1040 on behalf of themselves, which was filed
12 with the Internal Revenue Service, wherein it was stated
13 that a joint taxable income for said calendar year was the
14 sum of \$125,479, and the amount of tax due and owing thereon
15 was the sum of \$47,889.

16 Whereas, they then and there well knew and
17 believed their joint taxable income for the said calendar
18 year of \$435,578 upon which joint taxable income there was
19 owing to the United States of America an income tax of
20 \$145,873, all in violation of Title 26, United States Code,
21 Section 7201 and Title 18, United States Code, Section 2.

22 Count Six: Paragraph 1 through 34 of the
23 introduction to the Bill of Indictment are realleged and
24 incorporated by reference herein.

25 On or about October 8 -- excuse me. On or about

1 April 8, 2007, in Mecklenburg County within the Western
2 District of North Carolina and elsewhere, aided and abetted
3 by others known and unknown to the grand jury, the
4 defendants, Anthony L. Jinwright and Harriet P. Jinwright,
5 residents of Charlotte, North Carolina and during the
6 calendar year 2006 were married, did willfully attempt to
7 evade and defeat a large part of the income tax due and
8 owing by them to the United States of America for the
9 calendar year 2006 by preparing and causing to be prepared,
10 and by signing and causing to be signed a false and
11 fraudulent Joint U. S. Individual Income Tax Return Form
12 1040 on behalf of themselves which was filed with the
13 Internal Revenue Service wherein it was stated that their
14 joint taxable income for said calendar year was the sum of
15 \$104,906, and the amount of tax due and owing thereon was
16 the sum of \$43,218.

17 Whereas, they then and there well knew and
18 believed their joint taxable income for the said calendar
19 year was \$548,463, upon which joint taxable incoming there
20 was owing to the United States of America an income tax of
21 \$197,278, all in violation of Title 26, United States Code,
22 Section 7201, and Title 18, United States Code, Section 2.

23 Finally, Count Seven: Paragraphs 1 through 34 of
24 the introduction to this Bill of Indictment are realleged
25 and incorporated by reference herein.

1 On or about October 15, 2008, in Mecklenburg
2 County within the Western District of North Carolina and
3 elsewhere, aided and abetted by others known and unknown to
4 the grand jury, the defendants, Anthony L. Jinwright and
5 Harriet P. Jinwright, residents of Charlotte, North Carolina
6 who during the calendar year 2007 were married, did
7 willfully attempt to evade and defeat in large part the
8 income tax due and owing by them to the United States of
9 America for the calendar year 2007 by preparing and causing
10 to be prepared, and by signing and causing to be signed a
11 false and fraudulent Joint U. S. Individual Income Tax
12 Return, Form 1040 on behalf of themselves which was filed
13 with the Internal Revenue Service wherein it was stated that
14 their joint taxable income for said calendar was the sum of
15 \$199,799. The amount of debt -- and that the amount of tax
16 owing -- due and owing thereon was the sum \$64,933.

17 Whereas, they then and there well knew and
18 believed that their joint taxable income for the said
19 calendar year was \$678,190 upon which joint taxable income
20 there was owing to the United States of America an income
21 tax of \$239,742, all in violation of Title 26,
22 United States Code, Section 7201, and Title 18,
23 United States Code, Section 2.

24 The relevant statute on this subject is Title 26,
25 United States Code, Section 7201, which provides in certain

1 part, quote: "Any person who willfully attempts in any
2 manner to evade or defeat any tax imposed or the payment
3 thereon shall be guilty of an offense against the United
4 States." The language of Section 7201 is quite broad,
5 specifying it applies to the willful attempt to evade any
6 tax in any manner.

7 Section 2A of Title 18 of the United States Code
8 provides, quote: "Whoever commits an offense against the
9 United States or aid, abets, counsels, commands, induces or
10 procures its commission is punishable as a principal," close
11 quote.

12 For you to find the defendants guilty of each of
13 these crimes, you must be convinced for each count and as to
14 each defendant the government has proven each of the
15 following elements beyond reasonable doubt as to each
16 defendant.

17 1. An affirmative act constituting an evasion or
18 attempted evasion of the tax. Or

19 2. The existence of a tax deficiency. And

20 3. Willfulness, or

21 4. The defendant willfully aided, abetted,
22 counseled, commanded, induced or procured the commission of
23 such conduct.

24 The first element the government must prove beyond
25 a reasonable doubt is that the defendant committed the

1 affirmative act constituting tax evasion described in each
2 count of the Bill of Indictment. The Internal Revenue Code
3 makes it a crime to attempt in any manner to evade or defeat
4 any income tax imposed by law. There are many different
5 ways in which a tax may be evaded or an attempt may be made
6 to evade it. In this case, the defendant -- excuse me --
7 the indictment alleges that the defendants filed false and
8 fraudulent joint income tax returns which understated their
9 true income for the years charged in the indictment
10 resulting in additional taxes due and owing for those years.

11 Willful attempt may be inferred from conduct such
12 as keeping a double set of books, making false entries or
13 alterations, false invoices or documents, destruction of
14 books or records, concealment of assets or covering up
15 sources of income, handling of one's affairs to avoid making
16 the records usual in transactions of the kind, and any
17 conduct the likely effect of which would be to mislead or to
18 conceal.

19 If the tax evasion motive plays any part in such
20 conduct, the offense may be made out even though the conduct
21 may also serve other purposes, such as concealment of other
22 crimes -- a concealment of other crimes.

23 Let me give you some additional law on the
24 question of what income -- of what -- of what is income.

25 Under the Internal Revenue Code a taxpayer is

1 required to report as gross income on an annual tax return
2 all income from whatever source derived, including among
3 other things, compensation for services, including fees,
4 commissions, fringe benefits, and similar items unless
5 otherwise excluded from income.

6 I will not instruct you -- I will not instruct you
7 on different types of payments that may be excluded from
8 income under -- excuse me. I said "not." It's "I will now"
9 -- it says "no," and that's obviously a typo.

10 I will now instruct you on different types of
11 payments that may be excluded from income under certain
12 circumstances.

13 Any amount transferred by or for an employer to or
14 for the benefit of an employee is income. Such payments are
15 not gifts -- that "not" is correct. Such payments are not
16 gifts under the Internal Revenue Code and may not be
17 excluded from gross income regardless of how the payments by
18 the employer to the employee are characterized.

19 Additionally, payments by an employer to an
20 employee or on the employee's behalf as reimbursements for
21 purported business-related expenditures must be included in
22 the gross income of the employee unless the expenses are
23 ordinary and necessary business expenses, the business
24 nature of the expenses has been substantiated, and any
25 unsubstantiated payments have been returned to the employer.

1 And finally, a minister is entitled to exclude
2 from gross income an amount paid as a rental allowance as
3 part of his compensation to the extent -- part of his or her
4 compensation to the extent that the allowance is used to
5 provide a home but only if the allowance is designated as
6 such by official action taken in advance of such payment by
7 the ministers' employing church. Expenses directly related
8 to providing a home include providing utilities such as
9 electricity, water, gas, maintenance and repairs and cable
10 television.

11 Therefore, if you find that the evidence that the
12 defendants received payments from their employer, Greater
13 Salem Church, those payments are income to the defendants as
14 a matter of law. If you find from the evidence the
15 defendants received payments directly or on their behalf as
16 reimbursements for claimed business-related expenses, I
17 instructed you that these payments must also be included by
18 the defendants as income unless you also find the
19 requirements for exclusion of such payments have been met.

20 And finally, I instruct you that if you find the
21 defendant have received payments for rental allowance, such
22 payments may not be excluded from gross income unless you
23 further find that there has been an official designation of
24 such by Greater Salem Church in advance of any such
25 payments.

1 You have heard evidence in this case that the
2 defendants received payments from sources that have been
3 variously referred to as honoraria, donations, love
4 offerings, free will offerings, and gifts.

5 I instruct you that whether a payment other than
6 one directly from an employer to an employee constitutes a
7 gift or is taxable income is a question of fact that is left
8 for you to determine based on all the evidence.

9 To assist you in making this determination, I will
10 provide the following instructions on the difference between
11 a gift, which is excludable from income, and a payment which
12 must be included in income even though characterized as a
13 gift.

14 The statute does not use the term "gift" in the
15 common law sense but in a more colloquial sense. A
16 voluntarily executed transfer of his property by one to
17 another, without any consideration or compensation therefor
18 through a common law gift, it is not necessarily -- is -- is
19 not necessarily a gift within the meaning of the statute.
20 And mere absence of a legal or moral obligation to make such
21 a payment does not establish that it is a gift. If the
22 payment proceeds primarily from the constraining force of
23 any moral or legal duty or from the incentive of anticipated
24 benefit of an economic nature, it is not a gift. And
25 conversely, where the payment is in return for services

1 rendered it is irrelevant that the donor derives no economic
2 benefit from it.

3 A gift in the statutory sense, on the other hand,
4 proceeds from a detached and disinterested generosity out of
5 affection, respect, admiration and charity or the like
6 impulses. And in this regard the most critical
7 consideration is the transferor's intention. What controls
8 is the intention with which payment, however voluntary, has
9 been made.

10 The donor's characterization of this action is not
11 determinative, but that there must be an objective inquiry
12 as to whether what is called a gift amounts to it in
13 reality. It scarcely needs adding that the party's
14 expectation -- expectations or hopes as to the tax treatment
15 of their conduct in themselves have nothing to do with the
16 matter.

17 You've heard testimony that the defendants
18 received payment from Greater Salem Church designated as a
19 payment for their daughter's tuition and education expenses.
20 Gross income, and, therefore, taxable income, does not
21 include any amount received as a qualified scholarship by an
22 individual who is a candidate for a degree at an educational
23 organization.

24 A "scholarship" generally means an amount paid or
25 about to, or for the benefit of a student -- whether an

1 undergraduate or graduate -- to aid such individual in
2 pursuing his or her studies. The term includes the value of
3 tuition, books and supplies, room, board, laundry service
4 and similar services or accommodations which are received by
5 an individual as part of a scholarship and other fees which
6 are furnished or remitted to a student to aid him or her in
7 pursuing his or her studies. The term also includes any
8 amount received in a nature of a family allowance as part of
9 a scholarship.

10 A "qualified scholarship" means any amount
11 received by an individual as a scholarship or fellowship
12 grant including the value of contributed services and
13 accommodations to the extent that in accordance with the
14 conditions of the grant such amount was used for qualified
15 tuition and related expenses.

16 "Qualified tuition and expenses" means tuition and
17 fees for the enrollment or attendance at an educational
18 organization and fees, books, supplies and equipment
19 required for courses of instruction at such an educational
20 organization.

21 "Educational organization" means an educational
22 organization which normally maintains a regular faculty and
23 curriculum and normally has a regularly enrolled book of --
24 excuse me -- body of pupils or students in attendance at the
25 place where its educational activities are regularly carried

1 on.

2 Also, amounts received by an individual to cover
3 expenses for travel (including meals and lodging while
4 traveling and an allowance for travel of the individual's
5 family) research, clerical help, or equipment are excludable
6 from taxable income provided that such expenses are incident
7 to a scholarship or fellowship grant which is excludable
8 from taxable income as explained above.

9 To the extent that a scholarship or a fellowship
10 grant does not meet the conditions just explained to you, it
11 is includable in the gross income of the recipient
12 notwithstanding the general rules related to exclusion from
13 gross income related to gifts or to prizes or awards.

14 Additionally, a scholarship or fellowship is not
15 excludable from income to the extent to which it is paid as
16 compensation for services or primarily for the benefit of
17 the grantor. "Any amount paid or allowed to, or on behalf
18 of an individual to enable him to pursue studies or research
19 is not excludable from gross income if such an amount
20 represents either compensation for past, present or future
21 employment services or represents payment for services which
22 are subject to the direction or supervision of the grantor."

23 You have heard testimony that the defendants
24 received payments designated as reimbursements for expenses
25 they made in support of the business ministry of Greater

1 Salem Church. When an employee incurs expenses performing
2 functions relative to his or her work and the employer
3 reimburses him for these expenses, the reimbursement can
4 either be excluded or deducted from the employee's taxable
5 income.

6 A reimbursement paid to an employee is excludable
7 from the employee's taxable income if the employer has an
8 accountable reimbursement plan in place. In order to have
9 an accountable reimbursement plan, an employer must have a
10 reimbursement arrangement that meets the following three
11 conditions:

12 1. The employee receives reimbursements for
13 deductible business expenses that he paid or incurred while
14 performing services as an employee.

15 2. The employee is required to substantiate the
16 expenses to his employer within a reasonable period of time.
17 And

18 3. The employee is required to return any excess
19 reimbursement within a reasonable period of time.

20 If these conditions are met, the reimbursement
21 arrangement is considered an "accountable plan."

22 So long as these requirements are met, there is no
23 requirement that an accountable plan be set forth in
24 writing. Payments that are made pursuant to such
25 accountable plans are excluded from the employee's taxable

1 income and the employer is not required to report such
2 payments on the employee's W-2 form.

3 For purposes of travel expense, including meals
4 and lodging, entertainment expenses and business gifts,
5 "substantiation" for purposes of an accountable
6 reimbursement plan means adequate records or sufficient
7 evidence corroborating the taxpayer's own statement
8 sufficient to show the amount of such expense or other
9 item --

10 A. The amount of such expense or other item.

11 B. The time and place of the travel,
12 entertainment, amusement, recreation, or the date and
13 description of the gift.

14 C. The business purpose of the expense or other
15 item.

16 And D, the business relationship to the taxpayer
17 of persons entertained or receiving the gift.

18 With respect to all other business expenses,
19 substantiation is sufficient if information is submitted to
20 the payor sufficient to enable the payor to identify the
21 specific nature of each expense and to conclude that the
22 expense is attributable -- attributable to the payor's
23 business activities.

24 Under the accountable plan, substantiation of
25 expenses and return of excess reimbursements must be made

1 within a reason period of time. The determination of
2 whether a set period of time is reasonable varies depending
3 on the facts and circumstances. However, any advance made
4 within 30 days of when an expense is paid or incurred, any
5 expense substantiated within 60 days after it is paid or
6 incurred, and any amount returned to the payor within 120
7 days after an expense is paid or incurred should
8 automatically be considered to have occurred within a
9 reasonable period of time. These limits will not be
10 considered reasonable, however, if a payor has the plan or
11 practice to provide amounts to employees in excess of
12 expenses substantiated to avoid reporting these amounts.

13 Reimbursement arrangements between employer and
14 employee that do not meet the three requirements necessary
15 to be considered pursuant on an accountable plan are
16 considered to be made pursuant to a nonaccountable plan.
17 Reimbursements made pursuant to nonaccountable plans may not
18 be excluded from gross income but are deductible from the
19 employee's taxable income provided that the employee can
20 properly substantiate by adequate records the full amount
21 being reimbursed.

22 Specifically, nonaccountable plans occur in the
23 following circumstances:

24 1. When the employee is not required to account
25 to the employer or when the employee fails to account.

1 2. When the employee's expenses exceed the total
2 amount reimbursed and the employee claims a deduction for
3 the amount in excess.

4 3. When the employee is related to the employer.
5 And

6 4. When the reporting and substantiation of the
7 expenses by the employer is determined to be inadequate.

8 In cases where the employee either is not required
9 by the employer or fails to account to his employer for
10 business expenses, the employee must submit a statement with
11 his tax return stating the following:

12 1. The total amounts received as advances or
13 reimbursements for business expenses.

14 2. The nature of his occupation, the number of
15 days away from home or business. And

16 3. The total amount of business expenses paid or
17 incurred by him broken down into expense categories.

18 Also, {FLUSH} certain business expenses have
19 particular elements that must be specifically substantiated
20 by the taxpayer in order to deduct the reimbursement. For
21 example, the substantiated business expense for travel away
22 from home the taxpayer must provide:

23 1. The amount of each separate expenditure for
24 traveling away from home, such as transportation, lodging,
25 meals and incidental expenditures.

1 2. The dates of departure and return each trip
2 and the number of days away from home.

3 3. The destination or locality of travel. And

4 4. The business reason for travel or the nature
5 of the business benefit derived as a result of travel.

6 To meet the "adequate records" requirement for
7 substantiating business expenses, a taxpayer must maintain
8 an account book, diary, log, statement of expense, trip
9 sheets or similar record and documentary evidence which in
10 combination are sufficient to establish each element of an
11 expenditure or business expense. However, it is recognized
12 that by reason of the nature of certain expenses or the
13 circumstances under which they occurred, it is often
14 difficult for an employee to maintain detailed records or
15 to preserve supporting documents for all expenses. Detailed
16 records of small expenditures incurred in traveling or for
17 transportation, as, for example, tips, will not be required.

18 Now, you have heard testimony from defendant
19 Anthony L. Jinwright -- you heard testimony that the
20 defendant Anthony L. Jinwright received payments from
21 Greater Salem Church intended to fund a retirement account.
22 Retirement payments directly to an employee are not
23 excludable from income but may under certain circumstances
24 be deductible from income by the employee.

25 You have had heard testimony that defendant,

1 Anthony L. Jinwright, received the use of a Mercedes Benz
2 leased by Greater Salem Church. Payments made by an
3 employer for business expenses of an employee may be
4 excluded from gross income to the extent they would be
5 deductible from the employee's gross income as business
6 expenses if made directly to the employee. This may include
7 usage of an automobile provided to the employee by the
8 employer to the extent the automobile is used for business
9 purposes.

10 You have heard testimony that defendant, Anthony
11 L. Jinwright received payments from Greater Salem Church
12 designated as a vehicle allowance. A cash payment made by
13 an employer to an employee does not qualify as a tax-exempt
14 working condition payment unless the employer requires the
15 employee to:

16 1. Use the payment for expenses in connection
17 with a specific or prearranged activity or undertaking which
18 would otherwise qualify as a deductible business expense if
19 paid for by the employee himself.

20 2. Verify that the payment is actually used for
21 such expense. And

22 3. Return to the employer any payment -- any part
23 of the payment not so used.

24 In regard to the categories I've just listed for
25 you, the fact that these payments are income to defendants

1 or that defendants did not include these payments on their
2 tax returns does not establish by itself that defendants
3 attempted to evade the tax due on these payments or that
4 they knowingly and intentionally filed false tax returns.
5 Unless you find that the omission of any such payments from
6 the defendants' returns was willful, you may not find them
7 guilty of any of the charges in the indictment on the basis
8 of the failure to report this income alone.

9 To prove the tax crimes charged in the indictment,
10 the government must prove that the understatement of income,
11 if any, was willful. I will explain that term in detail in
12 a few minutes.

13 The next element of the offense the government
14 must prove beyond a reasonable doubt is that the defendants
15 owed substantially more federal income tax for the calendar
16 year charged in the Bill of Indictment than what is declared
17 due on their income tax return. The government does not
18 have to prove the exact amount the defendants owed, nor does
19 the government have to prove that all the tax charged in the
20 indictment was evaded. Rather, the government only needs to
21 establish a substantial tax deficiency.

22 To prove that substantial additional tax is due,
23 the government must prove beyond a reasonable doubt that:

24 A, defendants received substantial income in
25 addition to what he or she or they reported on their income

1 tax return.

2 And B, there was tax due in addition to what was
3 shown to be due on their return.

4 To prove the defendants received substantial and
5 additional income omitted from their tax return, the
6 government introduced evidence of various payments received
7 by defendants including salaries, housing allowance,
8 bonuses, credit card payments by their employer, speaking
9 fees, paid vacations, payments from book sales and a vehicle
10 allowance, among others. If you find based on all the
11 evidence that the government has established beyond a
12 reasonable doubt the defendants received income in addition
13 to what they reported on their income tax return for the
14 year in question, then you must decide whether there was tax
15 due in addition to what was shown to be due on the return as
16 a result of defendants' additional unreported income.

17 In reaching your decision on this issue you should
18 consider, along with all the other evidence, the expert
19 testimony introduced during the trial concerning the
20 computation of the defendants' additional tax liability when
21 the alleged additional income was taken into account.

22 If you find beyond -- excuse me. If you find
23 based on all the evidence that the government -- that the
24 government has established beyond a reasonable doubt that
25 the defendants received substantial additional income, and

1 that there was tax due in addition to what was shown to be
2 due on their income tax return as a result of this
3 additional income, then this element has been satisfied.

4 "Aiding and abetting" means willfully to cause an
5 act to be done; to assist, counsel, command, induce,
6 procure the commission of an act. In order to aid and abet
7 another to commit a crime, it is necessary that the
8 defendant willfully associated himself or herself in some
9 way with the criminal venture and willfully participate in
10 it as he or she would in something he or she wished to bring
11 about. That is to say, that he or she willfully seeks by
12 some act or omission to make the criminal venture succeed.
13 An act willfully done is done voluntarily and intentionally
14 and with specific intent to do something the law forbids.

15 The guilt of an accused in a criminal case may be
16 established without proof that the accused personally did
17 every act constituting the offense alleged. The law
18 recognizes ordinarily anything a person can do for himself
19 or herself may also be accomplished by him or her through
20 the direction of another person as his or her agent or by
21 acting in concert with or under the direction of another
22 person or persons in a joint effort or enterprise.

23 Whoever willfully causes an act to be done which,
24 if directly performed by him or another would be an offense
25 against the United States, is punishable as a principal. So

1 if the acts of conduct of an agent, an employee or other
2 associate of a defendant are willfully directed or
3 authorized by him, or if the defendant aids and abets
4 another person in the commission of a crime then the law
5 holds the defendant responsible for the acts or conduct of
6 such other person just as though he committed the acts or
7 conduct himself.

8 Before any defendant may be held criminally
9 responsible for the acts of another, it is necessary that
10 the accused willfully associate himself in some way with a
11 criminal venture and willfully participate in it as he would
12 in something he wishes to bring about. That is to say, that
13 he willfully sought by some act or omission of his to make
14 the criminal venture succeed.

15 Of course, mere presence at the scene of a crime
16 and knowledge the crime is being committed are not
17 sufficient to establish the defendant either directed or
18 aided and abetted the crime unless you find that beyond a
19 reasonable doubt the defendant was a participant and not
20 merely a knowing speculator.

21 In order to find -- excuse me.

22 In order to be found guilty of aiding and abetting
23 the commission of the crimes charged in the Bill of
24 Indictment, the government must prove beyond a reasonable
25 doubt that each defendant:

1 1. Knew that the crime charged was to be
2 committed or was being committed.

3 2. Knowingly did some act for the purpose of
4 aiding, commanding, or encouraging the commission of that
5 crime. And

6 3. Acted with the intention of causing the crime
7 charged to be committed.

8 Finally, the government must prove beyond a
9 reasonable doubt that the defendants acted willfully.

10 As I already told you, willfulness means a
11 voluntary and intentionally violation of a known legal duty.
12 In this context, willfulness means that the defendants knew
13 that they had a duty to report such income and voluntarily
14 and intentionally did not report that the income. The
15 government need only prove that the defendants knew that
16 they should have reported more income than they did. The
17 government need not prove the defendants knew exactly how
18 much income they should have reported, nor that they knew
19 they should have reported all the income that they did not
20 report.

21 Whether the defendant had this knowledge is a
22 question of fact to be determined by you on the basis of all
23 the evidence. Of course, an act is done knowingly only if
24 it is done purposely and deliberately and not because of
25 mistake, accident, negligence or other innocent reason.

1 There is a rebuttable presumption that the returns
2 in issue in Counts Two through Seven were actually signed by
3 each defendant. In other words, you may infer and find that
4 a tax return was, in fact, signed by the person whose name
5 appears to be signed to it. You are not required, however,
6 to accept any such inference or to make any such finding.

7 If you find beyond a reasonable doubt from the
8 evidence in the case that the defendant under consideration
9 signed the tax return in question then you may also draw the
10 inference and may also find, but are not required to find,
11 that the defendant under consideration knew of the contents
12 of the return that the defendant signed.

13 The general rule that ignorance of the law or a
14 mistake of law is no defense to criminal prosecution does
15 not apply with regards to criminal tax offenses. To satisfy
16 the element the defendants acted willfully, the government
17 must prove beyond a reasonable doubt that the defendants
18 knew that he or she owed substantially more federal income
19 tax for the calendar year at issue than was declared on his
20 or her or their joint income tax return. Whether or not
21 either defendant has this knowledge is a question of fact to
22 be determined by you on the basis of all the evidence. Of
23 course, an act is done knowingly only if it is purposefully
24 and deliberately and not because of mistake, accident,
25 negligence, or other innocent reason.

1 Willfulness in the context of a criminal act in
2 income tax cases requires the government to prove that a law
3 impose a duty on each of the defendants, that each defendant
4 knew of this duty, and that he or she voluntarily and
5 intentionally violated that duty. Thus, the government must
6 prove beyond a reasonable doubt that each defendant
7 possessed the specific intent to defeat or evade the payment
8 of taxes which each defendant knew that it was his or her
9 duty to pay.

10 Mistakes regarding the tax treatment of an item of
11 taxable income are not willful, nor is negligence, even
12 gross negligence, in attempting -- in attending to the tax
13 preparation or in the keeping of books and records.

14 A defendant does not act willfully if he believes
15 in good faith that his actions comply with the law.
16 Therefore, if the defendant actually believed that what he
17 was doing was in accord with the tax statutes, and that he
18 paid all the taxes he owed, he cannot be said to have had
19 the criminal intent to willfully evade taxes.

20 Thus, if you find that the defendant honestly
21 believed that he owed no taxes, even if that belief was
22 unreasonable or irrational, then you should find him not
23 guilty. However, you may consider whether the defendant's
24 belief was actually reasonable as a factor in deciding
25 whether he held that belief in good faith.

1 It should also be pointed that neither the
2 defendant's disagreement with the law or his own belief that
3 the law is unconstitutional, no matter how earnestly that
4 belief is held, constitutes a defense of good faith. It is
5 the duty of all citizens to obey the law regardless of
6 whether they agree with it.

7 You have hear evidence showing that the defendants
8 consulted with an accountant prior to the preparation of the
9 tax returns in question and that the return was prepared
10 pursuant to that advice. If you find the defendants sought
11 the advice of an accountant whom they considered competent
12 and made a full and accurate report to that account -- to
13 that accountant of all the material facts available to him,
14 and acted strictly in accordance with the accountant's
15 advice without having a reasonable basis to believe that the
16 advice was incorrect, then you must find the defendants not
17 guilty.

18 Therefore, members of the jury, as to Counts Two
19 through Seven, considering each charge separately as to each
20 defendant, I charge you that if you find from the evidence
21 beyond a reasonable doubt that in the time and place
22 described in the indictment that the defendants owed
23 substantially more federal income tax for the calendar year
24 charged in the Bill of Indictment than was declared due on
25 his or her joint income tax return, that the defendants

1 committed the affirmative acts constituting tax evasion
2 described in the indictment, and that the defendants aided
3 and abetted, counseled, commanded, induced or procured the
4 commission of these acts, and that the defendants acted
5 willfully, then it would be your duty to return a verdict of
6 guilty as charged in the count of the indictment under the
7 consideration.

8 However, if you do not so find, or if you have a
9 reasonable doubt as to one or more of the essential elements
10 of the crime charged in that count, it will be your duty to
11 give the defendant or the defendants the benefit of doubt --
12 of that doubt and return a verdict of not guilty.

13 Counts Eight, Nine, Ten, Eleven, Twelve and
14 Thirteen of the indictment charges both defendants with
15 filing false tax returns by them for the calendar years
16 2002, 2003, 2004, 2005, 2006, and 2007 in violation of Title
17 26, United States Code, Section 7206(1), and Title 18,
18 United States Code, Section 2.

19 Each of Counts Eight through Thirteen charge the
20 same offense -- I'm going to read them to you in a moment --
21 filing false tax returns for the years 2002 through 2007.
22 The only difference between the counts is the year, the
23 amount of reported adjusted gross income, the alleged
24 correct adjusted gross income.

25 I will read each of the counts. But you should

1 consider each of the following instructions on each of these
2 counts. These counts are being grouped together to simplify
3 these instructions. You are to remember the instructions
4 previously given to you as they may apply to these counts
5 and you must consider each count and evidence pertaining
6 thereto and each defendant separately.

7 Count Eight reads: Paragraphs 1 through 34 of the
8 introduction to the Bill of Indictment are realleged and
9 incorporated by reference herein.

10 On or about August 30th, 2004, in Mecklenburg
11 County within the Western District of North Carolina and
12 elsewhere, the defendants, Anthony L. Jinwright and Harriet
13 P. Jinwright, residents in Charlotte, North Carolina, aided
14 and abetted by others known and unknown to the grand jury,
15 did willfully make and subscribe a Joint U. S. Individual
16 Income Tax Return for the calendar year 2002, which was
17 verified by a written declaration that was made under the
18 penalties of perjury and which they did not believe to be
19 true and correct as to every material matter.

20 That income tax return, which was filed with the
21 Internal Revenue Service, reported an adjusted gross income
22 of \$63,597, whereas they then and -- then -- whereas they
23 then and there well knew and believed that they received
24 adjusted income of approximately \$320,020, all in violation
25 of Title 26 United States Code, Section 7206(1) and Title

1 18, United States Code, Section 2.

2 I'll read you Count Nine. Paragraphs 1 through 34
3 of the introduction to the Bill of Indictment are realleged
4 and incorporated by reference herein.

5 On or about August 30, 2004, in Mecklenburg County
6 within the Western District of North Carolina and elsewhere,
7 defendants, Anthony L. Jinwright and Harriet P. Jinwright,
8 residents of Charlotte, North Carolina, aided and abetted by
9 others known and unknown to the grand jury, did willfully
10 make and subscribe a Joint U.S. Individual Income Tax Return
11 for the calendar year 2003 which was verified by a written
12 declaration that it was made under penalties of perjury and
13 which they did not believe to be true and correct as to
14 every material matter.

15 That income tax return, which was filed with the
16 Internal Revenue Service, reported an adjusted gross income
17 of \$85,190, whereas they then and there well knew and
18 believed their -- they received adjusted gross income of
19 approximately \$412,372, all in violation of Title 26, United
20 States Code, Section 7206(1), and Title 18, United States
21 Code, Section 2.

22 I will now read you Count Ten. Paragraphs 1
23 through 34 of the introduction to the Bill of Indictment is
24 realleged and incorporated by reference herein.

25 On or about October 24, 2005, in Mecklenburg

1 County within the Western District of North Carolina and
2 elsewhere, the defendants, Anthony L. Jinwright and Harriet
3 P. Jinwright, residents of Charlotte, North Carolina, aided
4 and abetted by others known and unknown to the grand jury,
5 did willfully make and subscribe a Joint U. S. Individual
6 Income Tax Return for the calendar year 2004 which was
7 verified by a written declaration that was made under the
8 penalties of perjury and which they did not believe to be
9 true and correct as to every material matter.

10 That income tax return which was filed with the
11 Internal Revenue Service reported an adjusted gross income
12 of \$222,454, whereas they then and there well knew and
13 believed they received an addition of -- excuse me --
14 received an adjusted income of approximately \$461,060, all
15 in violation of Title 26, United States Code, Section
16 7206(1), and Title 18, United States Code, Section 2.

17 I will now read you Count Eleven. Paragraphs 1
18 through 34 of the introduction of this Bill of Indictment
19 are realleged and incorporated by reference herein.

20 On or about October 15, 2006, in Mecklenburg
21 County within the Western District of North Carolina, the
22 defendants, Anthony L. Jinwright and Harriet P. Jinwright,
23 residents of Charlotte, North Carolina, aided and abetted by
24 others known and unknown to the grand jury, did willfully
25 make and subscribe a Joint U. S. Individual Income Tax

1 Return for calendar year 2005 which was verified by written
2 declaration that was made under the penalties of perjury and
3 which they did not believe to be true and correct as to
4 every material matter.

5 That income tax return, which was filed with the
6 Internal Revenue Service, reported adjusted gross income of
7 \$362,421, whereas they then and there well knew and believed
8 they received adjusted income of approximately \$617,781, all
9 in violation of Title 26, United States Code, Section
10 7206(1), and Title 18, United States Code, Section 2.

11 I'll now read to you Count Twelve. Paragraphs 1
12 through 34 of the introduction to this Bill of Indictment
13 are alleged and incorporated by reference herein.

14 On or about April, 18, 2007, in Mecklenburg County
15 within the Western District of North Carolina and elsewhere,
16 the defendants, Anthony L. Jinwright and Harriet P.
17 Jinwright, residents of Charlotte, North Carolina, aided and
18 abetted by others known and unknown to the grand jury, did
19 willfully make and subscribe a Joint U. S. Individual Income
20 Tax Return for the calendar year 2006 which was verified by
21 written declaration that was made under penalties of perjury
22 which they did not believe to be true and correct as to
23 every material matter.

24 That income tax return, which was filed with the
25 Internal Revenue Service, reported an adjusted gross income

1 of \$398,804, whereas they then and there well knew and
2 believed they received an adjusted income of approximately
3 \$785,299, all in violation of Title 26, United States Code,
4 Section 7206(1), and Title 18, United States Code, Section
5 2.

6 I will now read to you Count Thirteen. Paragraphs
7 1 through 34 of the introduction of this Bill of Indictment
8 are realleged and incorporated by reference herein.

9 On or about October 15, 2008, in Mecklenburg
10 County within the Western District of North Carolina and
11 elsewhere, the defendants, Anthony L. Jinwright and Harriet
12 P. Jinwright, residents of Charlotte, North Carolina, aided
13 and abetted by others known and unknown to the grand jury,
14 did willfully make and subscribe a Joint U.S. Individual
15 Income Tax Return for the calendar year 2007 which was
16 verified by a written declaration that was made under
17 penalties of perjury and which they did not believe to be
18 true and correct as to every material matter. That income
19 tax return, which was filed with the Internal Revenue
20 Service, reported an adjusted gross income of \$554,460,
21 whereas they then and there well knew and believed they
22 received an adjusted income of approximately \$884,131, all
23 in violation of Title 26, United States Code, Section
24 7206(1) and Title 18, United States Code, Section 2.

25 The defendants are charged in Counts Eight through

1 Thirteen with violating Title; 26, United States Code,
2 Section 7206(1) which reads in pertinent part, quote: "Any
3 person who willfully makes and subscribes to any return,
4 statement or other document which contains or is verified by
5 a written declaration that is made under the penalties of
6 perjury and which he does not believe to be true and correct
7 as to every material matter is guilty of an offense against
8 the United States." Close quote.

9 Section 2 of Title 8, the aiding and abetting
10 statute, was read to you previously in connection with the
11 charges contained in Counts Two through Seven and I will not
12 repeat it again here.

13 In order for you to find either of the defendants
14 or both guilty of the charges contained in Counts Eight
15 through Thirteen, the government must prove each of the
16 following essential elements as to each count as to the
17 defendant under consideration beyond a reasonable doubt.

18 1. The defendant made and subscribed to a tax
19 return containing a written declaration.

20 2. The tax return was made under penalties of
21 perjury.

22 3. The defendant did not believe the return to be
23 true and correct as to every material matter. And

24 4. The defendant acted willfully. Or

25 5. The defendant under consideration willfully

1 aided, abetted, counseled commanded, induced, or procured
2 the commission of such conduct.

3 The first element the government must prove beyond
4 a reasonable doubt is that the defendant subscribed and
5 filed a tax return. A tax return is subscribed to at the
6 time it is signed. A tax return is filed at the time it is
7 delivered to the Internal Revenue Service.

8 Section 6064 of Title 26 of the United States Code
9 provides in part that, quote: "The fact that an
10 individual's name is signed to a return shall be prima facie
11 evidence for all purposes that the return was actually
12 signed by him." Close quote.

13 Thus, there is a rebuttable presumption by virtue
14 of this provision that the returns issue -- in issue in
15 Counts Eight through Thirteen were actually signed by each
16 defendant. In other words, you may infer and find that a
17 tax return was, in fact, signed by the person whose name
18 appears to be signed to it. You are not required, however,
19 to accept any such inference or to make any such finding.

20 If you find beyond a reasonable doubt from the
21 evidence in the case that the defendant under consideration
22 signed the tax return in question, then you may also draw
23 the inference and may also find, but are not required to
24 find, that the defendant under consideration knew of the
25 contents of the return that the defendant signed.

1 Section 7206(1) requires that the return be made
2 "under the penalties of perjury." This element applies if
3 you find the tax returns in question contained -- this
4 element applies if you find that the tax returns in question
5 contained a declaration that they were signed under the
6 penalties of perjury. The signature plus the declaration is
7 sufficient and the document need not be witnessed or
8 notarized.

9 The third element the government must prove beyond
10 a reasonable doubt is that the defendant did not believe the
11 return to be true and correct as to every material matter.
12 The test of materiality is whether a particular item must be
13 reported in order that a taxpayer estimates and computes his
14 tax correctly. The purpose of Section 7206(1) is not simply
15 to ensure that the taxpayer pay the proper amount of taxes,
16 though that is surely one of its goals. Rather, that
17 section is intended to ensure also the taxpayer not make
18 misstatements that could hinder the Internal Revenue Service
19 in carrying out such functions as to the verification of the
20 accuracy of that return or related tax return.

21 The government must also prove the defendants knew
22 the statement was false. As I have previously instructed
23 you, a person acts knowingly when he acts intentionally and
24 voluntarily and not because of ignorance, mistake, accident,
25 or carelessness. Whether the defendant acted knowingly may

1 be proven by the defendant's conduct and by all of the facts
2 and circumstances surrounding the case.

3 I've already defined for you the terms "aiding and
4 abetting," "knowingly", intentionally," and "willfully"
5 previously in these instructions. I've also given you
6 instructions concerning the proof of signing a return is
7 proof of knowledge of its contents and reliance on
8 accountant's -- and reliance on the accountant's advice. I
9 will not repeat these definitions again here. However, you
10 are to remember their meanings and use them in your
11 deliberations as to Counts Eight through Thirteen.

12 Therefore, members of the jury, as to Counts Eight
13 through Thirteen, considering each charge separately as to
14 the defendant under consideration, I charge you that if you
15 find from the evidence beyond a reasonable doubt that the
16 defendant under consideration made or caused to be made and
17 signed a Federal Income Tax Return for the year or years in
18 question, or of the -- the return for the year in question
19 contained false information as to a material matter as
20 detailed in the indictment, the defendant under
21 consideration knew that this information was false, the
22 return contained a written declaration that was being signed
23 subject to the penalties of perjury, and filing the tax
24 return the defendant under consideration acted willfully or
25 the defendant under consideration willfully aided, abetted,

1 counseled, commanded, induced or procured the commission of
2 such conduct, it will be your duty to return a verdict of
3 guilty as charged.

4 However, if you do not so find or if you have any
5 reasonable doubt as to one or more of the essential elements
6 of the crime charged, it will be your duty to give the
7 defendant under consideration the benefit of that doubt and
8 return a verdict of not guilty.

9 Counts Fifteen, Sixteen, Seventeen, Eighteen and
10 Nineteen of the indictment charge defendant, Anthony L.
11 Jinwright, with five separate instances of mail fraud of
12 affecting a financial institution in violation of Title 18,
13 United States Code, Section 1341, and Title 18,
14 United States Code, Section 2. Each of Counts Fifteen
15 through Nineteen charge the same offense; mail fraud for the
16 year 2001, 2002, 2006. The only difference between the
17 counts is the year and the make and model of the
18 automobiles.

19 I will read all the counts but you should consider
20 each of the instructions on each of these counts.

21 Count Fifteen. Paragraphs 1 through 34 of the
22 introduction to the Bill of Indictment are realleged and
23 incorporated by reference herein.

24 On or about November 1, 2001, in Mecklenburg
25 County, within the Western District of North Carolina and

1 elsewhere, the defendant, Anthony L. Jinwright, aided and
2 abetted by others known and unknown to the grand jury,
3 having devised and intending to devise a scheme and artifice
4 affecting a financial institution as described in paragraph
5 34 above, to defraud and to obtain money and property by
6 means of false and fraudulent pretenses and representations
7 for the purpose of executing and in order to effect the
8 scheme or artifice, did knowingly cause to be sent,
9 delivered and moved by the United States Postal Service as
10 well as through private commercial mail carriers according
11 to the directions thereon, certain matters or things to
12 various persons and locations, to-wit, a false and
13 fraudulent loan application in connection with the lease of
14 a 2002 Lexus LX470, all in violation of Title 18, United
15 States Code, Section 1341.

16 Count Sixteen: Paragraphs 1 through 34 of the
17 introduction of this Bill of Indictment are realleged and
18 incorporated by reference herein.

19 On or about May 27, 2002, in Mecklenburg County
20 within the Western District of North Carolina and elsewhere,
21 the defendant, Anthony L. Jinwright, aided and abetted by
22 others known and unknown to the grand jury, having devised
23 and intended to devise a scheme and artifice effecting a
24 financial institution as described in paragraph 34 above, to
25 defraud and to obtain money and property by means of false

1 and fraudulent pretenses and representations for the purpose
2 of executing and in order to effect the scheme and artifice
3 did knowingly cause to be sent, delivered and moved by the
4 United States Postal Service, as well as through private
5 commercial mail carriers according to the directions
6 thereon, certain matters or things to various persons and
7 locations, to-wit, a false and fraudulent loan application
8 in connection with the lease of 2002 Lexus SC430, all in
9 violation of Title 18, United States Code, Section 1341.

10 I will now read you Count Seventeen. Paragraphs 1
11 through 34 in the introduction of this Bill of Indictment
12 are realleged and incorporated by reference herein.

13 On or about August 7, 2006, in Mecklenburg County
14 within the Western District of North Carolina and elsewhere,
15 the defendant, Anthony L. Jinwright, aided and abetted by
16 others known and unknown to the grand jury, having devised
17 and intended to devise a scheme and artifice effecting a
18 financial institution as described in paragraph 34 above, to
19 defraud and to obtain money and property by making false and
20 fraudulent pretenses and representations for the purpose of
21 executing in order to effect the scheme and artifice did
22 knowing cause to be sent, delivered and moved by the United
23 States Postal Service, as well as through private commercial
24 mail carriers according to the directions thereon, certain
25 matters or things to various persons and locations, to-wit,

1 a false and fraudulent loan application in connection with
2 the lease of a 2006 Lexus SC430, all in violation of Title
3 18, United States Code, Section 1341.

4 I'll now read you Count Eighteen. Paragraphs 1
5 through 34 of the introduction of this Bill of Indictment
6 are realleged and incorporated by reference herein.

7 On or about August 7th, 2006, in Mecklenburg
8 County within the Western District of North Carolina and
9 elsewhere, the defendant, Anthony L. Jinwright, aided and
10 abetted by those known and unknown to the grand jury, having
11 devised and intended to devise a scheme and artifice
12 affecting a financial institution as described in paragraph
13 34 above, to defraud and to obtain money and property by
14 means of false and fraudulent pretenses and representations
15 for the purpose of executing and in order to effect the
16 scheme and artifice did knowingly cause to be sent,
17 delivered and moved by the United States Postal Service as
18 well as through private commercial mail carriers according
19 to directions thereon, certain matters or things to various
20 persons and locations, to-wit, a false and fraudulent loan
21 application in connection with the lease of a 2006 Lexus
22 LX470, all in violation of Title 18, United States Code,
23 Section 1341.

24 Now I will read you Count Nineteen. Paragraphs 1
25 through 34 of the introduction of this Bill of Indictment

1 are realleged and incorporated by reference herein.

2 On or about December 21st, 2006, in Mecklenburg
3 County, within the Western District of North Carolina and
4 elsewhere, the defendant, Anthony L. Jinwright, aided and
5 abetted by others known and unknown to the grand jury,
6 having devised and intended to devise a scheme or artifice
7 affecting a financial institution as described in paragraph
8 34 above, to defraud and to obtain money and property by
9 means of false or fraudulent pretenses and representations
10 for the purposes of -- for the purpose of executing and in
11 order to effect the scheme and artifice, did knowingly cause
12 to be sent, delivered and moved by the United States Postal
13 Service as well as private commercial mail carriers,
14 according to directions thereon, certain matters or things
15 to various persons and locations, to-wit, a false and
16 fraudulent loan application in connection with the lease of
17 a 2007 BMW 650I for his daughter, all in violation of Title
18 18, United States Code, Section 1341.

19 Title 18, United States Code, Section 1341
20 provides in pertinent part: "Whoever, having devised or
21 intended to devise any scheme or artifice affecting a
22 financial institution to defraud or for obtaining money or
23 property by means of false or fraudulent pretenses,
24 representations or promises, and for the purpose of
25 executing such scheme or artifice or attempting so to do,

1 places in any post office or authorized depository for mail
2 matter any matter or thing whatever to be sent or delivered
3 by the postal service, or takes or receives therefrom, or
4 knowingly causes to be delivered by mail according to the
5 directions thereon, shall be guilty of an offense against
6 the United States."

7 I've already read to you the pertinent part of
8 Title 18, United States Code, Section 2.

9 In order to sustain this burden of proof, the
10 crime of using the mails to further a scheme or plan to
11 defraud or to obtain money or property by means of false or
12 fraudulent pretenses, representations or promises as charged
13 in Counts Fifteen through Nineteen of the indictment, the
14 government must prove the following essential elements
15 beyond a reasonable doubt:

16 1. The defendant did knowingly devised or
17 knowingly participated in a scheme or artifice to defraud or
18 to obtain money or property by means of false or fraudulent
19 pretenses, representations or promises as detailed in these
20 counts -- in those counts.

21 2. The false pretenses, representations or
22 promises were material; that is, it would reasonably
23 influence a person to part with money or property.

24 3. The defendant executed the scheme or attempted
25 to do so with the intent to defraud. And

1 4. In advancing or furthering or carrying out
2 this scheme the defendant used the mails or a private
3 interstate carrier or caused such to be used.

4 The word "scheme" or "artifice" as used in the
5 mail fraud statute means any plan or course of action
6 intended to defraud others, or to obtain money or property
7 by means of false or fraudulent pretenses, representations
8 or promises.

9 A scheme to defraud within the meaning of the
10 statute may be defined as the intentional use of false or
11 fraudulent representations for the purpose of gaining a
12 valuable undue advantage or working some injury to something
13 of value held by another. It is not necessary for the
14 government to prove that the defendant was actually
15 successful in defrauding anyone. An unsuccessful scheme is
16 as illegal as a scheme or plan that is ultimately
17 successful.

18 A statement or representation is false or
19 fraudulent within the meaning of this statute if known to be
20 untrue or made with reckless indifference as to its truth or
21 falsity and made or caused to be made with the intent to
22 deceive. A false or fraudulent representation may be made
23 by statements or half truths or the concealment of a
24 material fact, as well as by affirmative statements or acts.
25 The mail fraud statute prohibits any scheme utilizing the

1 mails that is reasonably calculated to deceive persons of
2 ordinary prudence and comprehension.

3 The term "false or fraudulent pretenses,
4 representations or promises" means a statement or assertion
5 which concerns a material or important fact or a material or
6 important aspect of the matter in question and that was
7 either known to be untrue at the time that it was made or
8 used, or that was made or used with reckless indifference as
9 to whether it was, in fact, true or false, and made or used
10 with the intent to defraud. And the near -- a material fact
11 is a fact that would be of importance to a reasonable person
12 in making a decision about a particular matter or
13 transaction.

14 The term "false or fraudulent pretenses,
15 representations or promises" includes actual direct false
16 statements as well as half truths, and includes the knowing
17 concealment of facts that are material to -- that are
18 material or important to the matter in question and that
19 were made or used with the intent to defraud.

20 To act with an intent to defraud means to act
21 knowingly and with the intention or purpose to deceive or to
22 cheat. An intent to defraud is ordinarily accompanied by a
23 purpose to bring about some gain or benefit to one's self or
24 a loss to some other purpose. The intent to defraud may be
25 inferred from the totality of the circumstances and need not

1 be proven by direct evidence.

2 It is not necessary that anyone actually be
3 deceived or cheated. The government need not prove that
4 anyone suffered a monetary loss because of the alleged
5 fraud.

6 The good faith of the defendant under
7 consideration is a complete defense to the charges of mail
8 fraud contained in Counts Fifteen through Nineteen of the
9 indictment because good faith on his part is simply
10 inconsistent with the intent to defraud alleged in these --
11 in those counts for those charges.

12 A person who acts or a causes another person to
13 act on a belief or an opinion honestly held is not
14 punishable under this statute merely because the belief or
15 opinion turns out to be inaccurate, incorrect or wrong. An
16 honest mistake in judgment on an error in management does
17 not rise to the level of intent to defraud.

18 A defendant does not act in "good faith" if, even
19 though he honestly holds a certain opinion or belief, that
20 defendant also knowingly makes false or fraudulent
21 pretenses, representations or promises to others.

22 The mail fraud statute is written to subject to
23 criminal punishment only those people who knowingly defraud
24 or attempt to defraud. While the term "good faith" has no
25 precise definition, it means, among other things, a belief

1 or opinion honestly held, an absence of malice or of ill
2 will, and an intention to avoid taking unfair advantage of
3 another.

4 In determining whether or not the government has
5 proven that the defendant acted with intent to defraud or
6 whether the defendant acted in good faith the jury must
7 consider all the evidence in the case bearing on the
8 defendant's state of mind.

9 The burden of proving good faith does not rest
10 with defendant because the defendant does not have any
11 obligation to prove anything this case. It is the
12 government's burden to prove to you beyond a reasonable
13 doubt that the defendant under consideration acted with the
14 intent to defraud.

15 If the evidence in the case leaves the jury with a
16 reasonable doubt as to whether the defendant acted with an
17 intent to defraud or in good faith, the jury must acquit.

18 The use of the United States mails or an
19 interstate carrier is an essential element of the offense of
20 mail fraud as charged in Counts Fifteen through Nineteen of
21 the indictment. The government is not required to prove
22 that the defendant actually mailed anything or that the
23 defendant even intended that the mails be used to further or
24 to advance or to carry out the scheme or plan to obtain
25 money or property by false or fraudulent pretenses or

1 representations or promises.

2 The government must prove beyond a reasonable
3 doubt, however, that the mails or interstate carrier were in
4 fact used in some manner to further or to advance or to
5 carry out the scheme to obtain money or property by false or
6 fraudulent pretenses, representations or promises. The
7 government must also prove that the use of the mails or the
8 interstate carrier would follow in the ordinary course of
9 business or events, or that the use of the mails or the
10 interstate carrier by someone was reasonably foreseeable.

11 It's not necessary for the government to prove
12 that the item itself -- that the item itself mailed was
13 false or fraudulent or contained any false or fraudulent
14 statement, representation or promise or contained any
15 request for money or thing of value.

16 The government must prove beyond a reasonable
17 doubt, however, that the use of the mails or the use of the
18 interstate carrier further advanced or carried out in some
19 way the scheme or plan to obtain money or property by means
20 of false or fraudulent pretenses, representations or
21 promises.

22 Therefore, members of the jury, as to Counts
23 Fifteen through Nineteen, considering each charge separately
24 as to the defendant under consideration, I charge you that
25 if you find from the evidence beyond a reasonable doubt that

1 the defendant under consideration knowingly devised or
2 knowingly participated in a scheme or artifice to defraud or
3 to obtain money or property by means of false or fraudulent
4 pretenses, representations or promises as detailed in those
5 counts, that the false pretenses, representations or
6 promises were material, that is, that -- that is, it would
7 reasonably influence a person to part with money or
8 property; that the defendant under consideration executed
9 the scheme or attempted to do so with the intent to defraud;
10 and that in advancing, furthering or carrying out this
11 scheme the defendant used the mails or private interstate
12 carrier or caused such to be used, it would be your duty to
13 return a verdict of guilty as charged.

14 However, if you do not so find or if you have
15 reasonable doubt as to one or more of the essential elements
16 of the crime charged, it will be your duty to give the
17 defendant under consideration the benefit of that doubt and
18 to return a verdict of not guilty.

19 All right. We will now take a ten-minute recess
20 until 11:05. Remember, you have not heard argument yet and
21 I have two more pages of instruction to give you after
22 you've heard argument. Only then can you start discussing
23 this case. During this break and any other break until this
24 case is committed to you, you still cannot discuss this case
25 among yourselves. All right. We'll take a ten-minute

1 recess.

2 (Jury leaves courtroom at 10:55 a.m.)

3 THE COURT: In reading an hour-and-a-half of
4 instructions, I'm sure I made some mistakes. Are there any
5 corrections counsel wants me to make?

6 MR. BROWN: One, Your Honor. On page 15 -- and I
7 don't think this is the Court's mistake -- it probably was a
8 typo in the government's proposed instruction. But in the
9 elements of tax evasion, the Court lists: "1. Affirmative
10 act," and then it says, "or the existence of a tax" --

11 THE COURT: Oh. That should --

12 MR. BROWN: -- be an "and."

13 THE COURT: -- be an "and."

14 MR. BROWN: You properly instructed them those are
15 separate elements but that needs to be an "and".

16 THE COURT: Absolutely. All right. And there was
17 one "no" that I said was "not" and then I came back and
18 corrected it was "now." Do I need to say that again? They
19 caught that one, right?

20 MR. BROWN: Yes, sir.

21 THE COURT: Okay. This one, as soon as they come
22 back, I will read this to them correctly and point out the
23 "or" should be "and." Anything from the defense?

24 MR. TATE: Nothing.

25 THE COURT: So you all agree I read them correctly

1 or close thereto?

2 MR. HINSON: Your Honor, I don't think it was a
3 material misstatement --

4 THE COURT: I put in "he or shes" or a few things
5 like that. I put in where it said "his return" and it was a
6 joint return, I made some minor changes like that; but they
7 were not material. They were just to correct the facts. So
8 there are no problems with those minor things?

9 MR. HINSON: No problems with the instructions as
10 read. We, of course, you know, renew our objections we made
11 before --

12 THE COURT: Oh, sure. Absolutely. No, I
13 understand that. I just want to make sure I read them
14 correctly. All right, I will fix this --

15 MR. TATE: Just for the record, we take the same
16 position.

17 THE COURT: Certainly. So I'll fix this when they
18 come out.

19 Mr. Brown, you've got two hours. How do you want
20 to divide it?

21 MR. BROWN: My hope is, Your Honor, an
22 hour-and-a-half or less in opening, a half an hour for
23 rebuttal.

24 THE COURT: Do you want warnings from me or do you
25 need to get them from your table?

1 MR. BROWN: I've got my colleagues out there
2 flagging for me.

3 THE COURT: All right. That's fine. Then we'll
4 be -- well, we need more time. Make it ten after; tell the
5 jurors they have until ten after. Thank you.

6 (Recess until 11:10 a.m.)

7 THE COURT: We've corrected page 15 both for
8 re-reading to the jurors and for the hard copy that goes
9 back to them, and also for the electronic version to go on
10 JERS. So that correction from "or" to "and" will be in ever
11 record of the instructions.

12 All right. So let's bring the jurors in.

13 (Jury enters courtroom at 11:12 a.m.)

14 THE COURT: All right. Mrs. Cochran, would you
15 bring the instructions back up on the screen.

16 Ladies and gentlemen of the jury, you might have
17 noticed as I was reading through these instructions that I
18 made a few corrections to typos and some minor corrections.
19 All of those were minor, and counsel and I have discussed
20 them while you were on recess.

21 There was one, though, that was an error I didn't
22 catch, and it's a very important error, and I'm going to
23 re-read you that one paragraph and explain where the
24 typographical error was so you know exactly what the
25 elements of the charge is.

1 I'm referring to the charge of tax evasion which
2 begins on Count Fourteen, and I think directly to the middle
3 of page 15. And let me re-read to you the subject
4 paragraph. It begins "For you." Do you see it there on
5 your screen?

6 For you to find the defendants guilty of each of
7 these crimes you must be convinced that for each count the
8 government has proven each of the following elements beyond
9 a reasonable doubt as to each defendant:

10 1. An affirmative act constituting an evasion or
11 attempted evasion of the tax, and -- the word "and."
12 Previously the word "or" was there. Now you see how
13 important this change is.

14 So where I read to you "or" before, the word "and"
15 is now at the end of subparagraph 1. And

16 2. The existence of a tax deficiency. And

17 3. Willfulness. Or -- and "or" does apply in
18 that case, it's correct. Or

19 4. Defendant willfully aided, abetted, counseled,
20 commanded, induced or procured the commission of such
21 conduct.

22 That is the correct instruction.

23 With that said, it's time for counsel to argue.

24 The United States.

25 MR. BROWN: Thank you, Your Honor. May it please

1 the Court. Counsel, ladies and gentlemen of the jury.

2 After all this time you probably know about as
3 much about me as I can remember about myself; but for
4 purposes of formality, I will reintroduce myself and tell
5 you that I'm David Brown. I'm an Assistant United States
6 Attorney. I am here in the Western District of North
7 Carolina and have been for about 15 years.

8 I want to tell you a couple of things before we
9 get to the heart of what it is I really want to talk to you
10 about during my limited amount of time.

11 This has been a long trial, perhaps longer than we
12 anticipated and certainly longer than you had hoped. We've
13 seen a lot of witnesses and we've certainly provided you
14 with plenty of opportunities to see documents. Some of them
15 we spent a lot of on time and some of them probably flashed
16 so quickly in the front of your eyes it made you dizzy. But
17 we were trying to expedite the case. I think I can speak on
18 behalf of my colleagues; I think that we have tried to
19 present our cases in the most efficient way that we could,
20 even if you think we could have done a better job.

21 Shortly, it will be your turn to do your job,
22 which is the most important function. You get to determine
23 whether the government has proven to you that Mr. and
24 Mrs. Jinwright are guilty of the charges in the indictment
25 beyond a reasonable doubt.

1 Let me make a couple of what I refer to as
2 disclaimers.

3 If you haven't noticed, we lawyers in this
4 courtroom are passionate about our cause and our defense of
5 our respective clients. I think I can speak for my
6 colleagues on the other side of the room and tell you that
7 trial work is no tea and crumpets affair. It's not for the
8 faint of heart. We are aggressive; we're tenacious, and I
9 hope we have been within the bounds of propriety. And if
10 we've overstepped, I think you've seen the judge bring us
11 back into line.

12 But I tell you that, folks, to say to you this
13 case isn't about the lawyers, this case is about United
14 States of America v. Anthony and Harriet Jinwright. And so,
15 if in our zeal to represent our respective clients if we
16 have somehow offended you, stepped on your toes, or if you
17 wish we had done our jobs differently, all I can say to you
18 is I think the lawyers here did the best they could for our
19 clients.

20 And what I would ask is this: That you not hold
21 any misgivings about the way we conducted ourselves against
22 either the United States or against Mr. and Mrs. Jinwright.
23 That's what the case is really all about.

24 Let me tell you a couple of other things this case
25 is not about before we start to the talk about what the case

1 is about, and this is important that you understand this;
2 and I hope you understood this throughout this trial, but I
3 want to be sure I emphasize it.

4 This case is not about religion. You've heard no
5 challenge from the United States in this courtroom of the
6 sincerity of either Mr. or Mrs. Jinwright's theological
7 beliefs. There has been no attack to their religious
8 practices, and there has been absolutely no criticism of
9 Greater Salem Church.

10 This case is not about Mr. and Mrs. Jinwright's
11 occupation except to the extent that, because they were
12 employed as ministers to Greater Salem Church, we
13 necessarily had to present evidence about that employment,
14 about the money that they received from their church and
15 about the tax ramifications of that employment. But they
16 are not being prosecuted, folks, because they are ministers.

17 But I also want to tell you the flip side of that:
18 Being a minister does not provide an excuse or an exemption
19 from complying with the laws of this country. They are
20 equally responsible to pay their taxes and that's what this
21 prosecution is about.

22 This case is also not about civil remedies. I
23 want to be very clear on this. We represent -- my office
24 represents the United States in the prosecution of crimes.
25 All kind of crimes. This happens to be a tax and mail fraud

1 case. We are not an arm of the Internal Revenue Service.
2 This is not a tax collection case.

3 And finally I think it probably doesn't need to be
4 said but I'm going to say it: This case is not about the
5 race, the ethnic background or the sex of the defendants.
6 These folks were not selected based on any of those
7 criteria; they were investigated and prosecuted because of
8 the crime they committed.

9 The witnesses who you heard in this courtroom were
10 presented based on their knowledge of the facts and the
11 evidence that was introduced during the trial of this case
12 was based on the facts.

13 Consideration of any of those factors that I've
14 just discussed would be wholly improper by you, it would be
15 a violation of your oath, and the Judge will tell you or the
16 Judge has already told you that neither bias nor sympathy or
17 prejudice for or against either the United States or for or
18 against Mr. and Mrs. Jinwright is not proper and it would
19 not be a fair consideration by you.

20 Now, let me tell you what this case is about. And
21 I have to tell you, folks, I may switch back and forth here.
22 This is my first privilege of trying a case in front of
23 Judge Whitney and he gives his jury instructions before
24 closing argument. That has not been my typical experience,
25 and so ordinarily I will refer to the fact, "The Judge will

1 tell you." Well, he's already told you; and so if I slip
2 and says he's going to tell you, just remember he already
3 has.

4 He already told you this case is about fraud.
5 He's read you the indictment. You can see this case is
6 about tax fraud generally and about mail fraud. There are
7 six counts of tax evasion in the indictment; there are six
8 counts of filing false tax returns in the indictment; five
9 counts of mail fraud in the indictment, and one count of
10 conspiracy to defraud the United States in violation of 18
11 United States Code, Section 371.

12 This case is about documents. You can't have this
13 much money involved in a fraud prosecution without having a
14 lot of documents. You can't have this many financial crimes
15 without having a lot of documents. But while you may have
16 thought, "Oh, my gosh, they're going to show us another
17 document," I want to tell you a couple things about
18 documents based on my experience at least as a federal
19 prosecutor.

20 Documents don't have memories. Unlike witnesses
21 who come in and testify to the best of their ability and
22 tell you what they recall to the best of their ability,
23 documents don't have that problem. They don't have
24 memories.

25 They don't have biases for or against either

1 party. They may contain true or false statements, but
2 whatever statements they contain stays the same. In other
3 words, documents don't lie to suit their own purposes. And
4 so the documents in this case are extremely important.

5 Now, what I want to do is work backwards through
6 the indictment. I'm going to talk to you about the mail
7 fraud counts, then the false return charges, the tax evasion
8 counts, and the conspiracy counts last -- or as least as
9 part of the evasion counts.

10 The reason I want to do that is, as you've
11 probably already noted from the Judge's instructions, there
12 are some overlapping elements in the tax counts. So what I
13 want to do is try to talk about the elements that are
14 different, and then I will talk about of the common elements
15 all at one time.

16 Let me start with the mail fraud counts and remind
17 you what the Judge has already told you, which are the
18 elements of mail fraud. That is, that Mr. Jinwright -- and
19 keep in mind, folks, that Mr. Jinwright alone is charged in
20 the mail fraud counts. Mrs. Jinwright is not charged as a
21 defendant in those counts.

22 The elements of the mail fraud charges are that
23 Mr. Jinwright knowingly devised a scheme or artifice to
24 defraud or to obtain money or property by false statements
25 or pretenses. That the false statement or pretense was

1 material. Judge Whitney has already told you that simply
2 means that it would reasonably influence a person to part
3 with money or property. That Mr. Jinwright executed that
4 scheme or attempted to do so with the intent to defraud.
5 And finally, that in advancing the scheme the mails were
6 used.

7 Let me again, as Judge Whitney has already done,
8 briefly explain some of those terms to you. Scheme and
9 artifice is simply a legal way of saying it's a plan or
10 course of action which is intended to defraud or obtain
11 money from someone. The use of a false representation for
12 the purpose of gaining some undue advantage over another.

13 A false statement, it can be false if it is known
14 to be untrue or made with reckless indifference as to its
15 truth or falsity. And it must be made with the intent to
16 deceive.

17 The intent to defraud means to knowingly and with
18 purpose to deceive or cheat. It ordinarily is accompanied
19 by a desire to obtain some gain, and it may be inferred from
20 the totality of the circumstances. And that's an important
21 point for me to make at this point in time.

22 As Judge Whitney has already told you, there are
23 two types of evidence, both direct evidence and
24 circumstantial evidence. They are equally persuasive for
25 your purposes. One is not better nor worse than the other.

1 And the reason why that's important is because it
2 is rare that you have direct evidence of what someone
3 intended, and that is true in the mail fraud counts. I want
4 to talk to you a little bit about that when we get to the
5 tax counts because I think the evidence here is somewhat
6 unique and different.

7 But as to the mail fraud counts, what we know is
8 from the testimony of Mr. Jackson, Mr. Gallagher and
9 Mr. Howell, that Mr. Jinwright didn't walk in there and say,
10 "By the way, fellows, I'm going to lie to you about my
11 income." He didn't say it. And so you have to look at the
12 circumstances surrounding what was put on those credit
13 applications to determine whether Mr. Jinwright knowingly
14 and with intent to defraud made a false statement.

15 The last element of mail fraud is simply that the
16 mails have to be used. I can actually cover this one
17 perhaps en masse for all of the mail fraud counts.

18 Do you remember the testimony of Mr. Howell? He
19 said it was a normal course of business for the car
20 dealership to overnight express, to FedEx, to UPS, to
21 somehow get the package, the credit application to the
22 financial institution. Why? The sooner they get the
23 package up there, the sooner the money comes back. In the
24 car dealership, as Mr. Hinson pointed out, they are in
25 business of making money. And so they would overnight their

1 packages.

2 As Judge Whitney already told you, the use of a
3 private or a commercial mail carrier falls within the
4 definition of the use of the mails. So mails were used in
5 every instance, and it must simply be reasonably foreseeable
6 to Mr. Jinwright that the mails would be used.

7 Which is, if you recall, why I was asking how he
8 ran his business, A. L. Jinwright Funeral Services. Did you
9 courier your bills out to people? Did you get your checks
10 by hand delivery? And he said no, when we needed to do
11 something, we sent mail out. We get mail at the office,
12 because everybody can understand that the use of the mails
13 is a normal business practice. So that satisfies that
14 element of the mail fraud count.

15 Let me talk to you about the specific charges.
16 Count Fifteen charges that in November of 2001 Mr. Jinwright
17 wanted to lease a 2002 Lexus LX470. We have the application
18 in front of you. You can see that he signed the
19 application; and on the very same page that he signed the
20 application, the income is reported as \$60,000 per month.
21 That application, folks, is unquestionably false. In fact,
22 you heard Mr. Jinwright's three days of testimony; at no
23 time did he ever say, "Yeah, I actually made \$60,000 of
24 income."

25 We know that return -- we know that amount is

1 false as well because on Mr. Jinwright's 2001 tax return he
2 only reported \$284,000. And even Ms. Polk, or Agent Nixon,
3 through her investigation -- if we could have the next
4 slide, please? There you go.

5 Even Ms. Polk testified that based on all the
6 evidence in this courtroom the total amount of income
7 reported from Mr. Jinwright was far less for 2000 -- was far
8 less than \$720,000 even in 2002.

9 So again, the evidence establishes that that
10 credit application is false.

11 Now, the real question for you is: How do we know
12 that Mr. Jinwright knew it was false? Well, because of what
13 he put on his tax return for one thing.

14 Mr. Howell, as you recall, told you that he got
15 that number, he got that amount, directly from
16 Mr. Jinwright. On this loan app -- this credit application
17 in particular, Mr. Howell said that number came directly
18 from Mr. Jinwright.

19 On the next application that we see you'll recall
20 the testimony of Mr. Howell. He said, "I'm sure I carried
21 over that amount of money to the next application based on
22 discussions with Mr. Jinwright because he told me his income
23 hadn't changed." So Mr. Jinwright is still responsible for
24 causing that amount to be placed on the second application.

25 But on this first one Mr. Howell was explicit:

1 "He gave me that amount of money and I put it on the
2 return -- or I put it on the credit application."

3 He also told you they don't keep -- at Hendrick
4 Motors they don't keep amounts of income for their clients
5 in their computer systems. Keep lots of information on
6 clients; and Mr. Howell said he and Mr. Jinwright had a long
7 relationship dating back to the mid '90s. But what he said
8 he didn't have in the computer and he wouldn't have had
9 anywhere else is the amount of income Mr. Jinwright was
10 earning that ended up on this credit application.

11 And this is where you get to do your jobs, folks,
12 because you are the sole arbiters, the final arbiters of the
13 credibility of witnesses.

14 Again, if you remember Mr. Howell's testimony, he
15 said, "I would not have made that number up and just stuck
16 it on there." He said he wouldn't do it. And we submit to
17 you that that was a -- that was a credible statement based
18 on all the other facts and circumstances that you are
19 entitled to consider in this courtroom. Mr. Howell also
20 told you, by the way, that that amount of income was
21 material.

22 I fully expect my colleagues will say to you,
23 "Well, nobody lost any money. All the lease payments were
24 made." That's not -- that's not what the charge is about.
25 The charge is not about whether or not the car had to be

1 repossessed. The charge is not about whether or not the
2 financial institution lost money. The charge is whether a
3 credit application was submitted which bore false
4 information which was relied on by a financial institution.
5 And the evidence again from Mr. Howell was, of course, the
6 finance companies want to know that; and, of course, it's a
7 material fact for them. If it weren't material, they
8 wouldn't ask for that information.

9 It's like, again, you're entitled to use your own
10 common sense here. If you have a home mortgage, you know
11 one of the things the finance company wants to know is how
12 much do you make. That's why they wanted that information.
13 So that was material to the determination of whether or not
14 they would issue that credit for that Lexus.

15 The best evidence I submit to you, though, ladies
16 and gentlemen, that Mr. Jinwright knew that that information
17 was false and that he intended to defraud, he didn't take
18 the stand and say to you, "Well, it was a guess on my part,"
19 or, "It was the best of my ability at the time," or, "We
20 were in a hurry and I wasn't thinking." He didn't say any
21 of those things.

22 What he said was, "When Gantt Howell said he got
23 that \$60,000 income figure from me, he lied to you." And so
24 it's an easy call: If Gantt Howell is lying, Mr. Jinwright
25 is telling the truth, then you ought to acquit him of that

1 count. If Mr. Jinwright is lying and Gantt Howell told you
2 the truth, then Mr. Jinwright is guilty of that count.

3 Count Sixteen. This was a credit application for
4 a 2002 Lexus SC340 in May of 2002. Again, you see it's got
5 \$60,000 of income on there. Again, Mr. Howell's testimony
6 was, "I got that information from Mr. Jinwright. I got it
7 originally back in November but our computer system doesn't
8 have it. What I did was I asked him, "Has your income
9 changed?" And Mr. Jinwright said "No." And so that's how
10 we have the \$60,000 figure on there.

11 Again, if you look on the application -- and we'll
12 hear, I'm sure, the argument, "Well, he signed a lot of
13 papers; he just didn't read it."

14 There's not a whole lot of space between that
15 material term on the application, \$60,000 a month of income,
16 and the signature which Mr. Jinwright admitted he put on
17 that document. Mr. Howell told you everything else on that
18 document he handwrote. What Mr. Howell told you as well is
19 he would not have put that number on there without knowing
20 that number directly from his client, Mr. Jinwright.

21 Mr. Jinwright signed the application knowing that
22 number was on there and knowing that that number was false.
23 Again, we know it was false because if we look at
24 Mr. Jinwright's 2002 tax return he only reported \$371,000 on
25 there, a far cry from the \$720,000 of annual income that

1 would have been earned if he was making \$60,000 a month.

2 And again, even Special Agent Nixon in her
3 investigation or Revenue Agent Polk through her analysis of
4 the evidence didn't come up with \$720,000 of income for
5 Mr. Jinwright in 2002.

6 Once again the mails were used. It was a material
7 statement. And the best evidence, I submit to you again,
8 Mr. Jinwright intended to defraud and knew this statement
9 was false because he offered no explanation for that amount
10 other than to say he didn't provide it; and when Gantt
11 Howell said the opposite, Mr. Jinwright said Gantt Howell
12 lied.

13 Count Seventeen is the credit application for the
14 2006 SC430. Again, this credit application was signed by
15 Mr. Jinwright. It reports now \$100,000 per month for
16 income, or \$1.2 million in annual income. We know the
17 statement is false because if we look at Mr. Jinwright's
18 2006 tax return he reported 642,000 on that tax return, a
19 far cry from the \$1.2 million on the credit application.

20 And again, even considering all the evidence of
21 unreported income that was discussed and analyzed here in
22 this courtroom, Revenue Agent Polk could not find
23 \$1.2 million of income for Mr. Jinwright for 2006.

24 Now, this document is a little bit unique. If you
25 remember the testimony of Jackie Johnson, he said he

1 couldn't remember where that \$100,000 came from for sure. A
2 couple things he told you. Hendrick Motors does not keep
3 income information of their clients in their computer so he
4 was confident it didn't come from there. He also said to
5 you, "I would not have made that up. I would not have put
6 \$100,000 a month for a client on a credit application unless
7 that's what the client told."

8 But try as he might, he couldn't remember
9 specifically talking to Mr. Jinwright about that. He was
10 very, very candid in his lack of memory. What he was clear
11 on is, "There are only two places I would have gotten that
12 figure: Gantt Howell, because Gantt Howell had this long
13 relationship with Mr. Jinwright, or Mr. Jinwright." So
14 according to Jackie Johnson, two sources for that \$100,000
15 amount on the credit application, Gantt Howell or
16 Mr. Jinwright.

17 If you recall, I asked Gantt Howell, "Did you
18 provide that amount to Mr. Jinwright?" Mr. Howell said,
19 "No." And he corroborated Mr. Johnson by saying he only
20 could have gotten that information based on Mr. Howell's
21 knowledge of the car industry from Mr. Jinwright.

22 But I submit to you again, if you take
23 Mr. Johnson's testimony as it is, it came from either
24 Mr. Jinwright or Mr. Howell; and if it didn't come from
25 Mr. Howell, it came from Mr. Jinwright.

1 What did Mr. Jinwright say when he took the stand
2 in this courtroom about Mr. Johnson? Mr. Johnson said if
3 there was any possibility that that \$100,000 figure came
4 from him, that is, Mr. Jinwright. And once again
5 Mr. Johnson lied. Those will not be the last witnesses that
6 Mr. Jinwright called liars in this courtroom.

7 Count Eighteen is a credit application for the
8 2006 Lexus LX470. Again on the same date, the same evidence
9 applies. Mr. Howell prepared most of the application.
10 Mr. Johnson finalized the application. It was a hand off.

11 If you recall their testimony, Mr. Howell again
12 said he didn't provide the \$100,000 per month income figure.
13 Mr. Johnson said that figure only came from either
14 Mr. Howell or Mr. Jinwright. Common sense tells you folks
15 that that amount came from Mr. Jinwright. And again,
16 according to Mr. Jinwright, Jackie Johnson just came in here
17 and lied to you.

18 Count Nineteen. Count Nineteen was the credit
19 application for the 2007 BMW 650I for Mr. and
20 Mrs. Jinwright's daughter in December 2006. Again, the
21 credit application is signed by Mr. Jinwright.

22 Now, this application and this lease is a little
23 unique because the testimony of Mr. Gallagher was
24 Mr. Jinwright came in intending to purchase this vehicle --
25 lease this vehicle for his daughter as a gift; but he

1 decided somewhere during the process that this would be a
2 good opportunity for him to help his daughter build up her
3 credit history. So what he said is, "I want my daughter to
4 be a co-applicant on this application."

5 Mr. Gallagher said, "Fine. I need some -- I need
6 some financial information about your daughter. I need her
7 name and I need what she makes and where she works."

8 According to Mr. Gallagher, again Mr. Jinwright provided the
9 amount of Anthonae Jinwright, that is Mr. and
10 Mrs. Jinwright's daughter, provided the amount of income
11 that she earned of \$66,000. And again Mr. Jinwright signed
12 the application.

13 And we know that the amount of \$66,000 reportedly
14 earned by Mr. and Mrs. Jinwright's daughter is false. We
15 know it's false because Ms. Jinwright, Anthonae Jinwright,
16 did not even file a tax return for 2006. She had zero
17 income for 2006. Even in 2007, when she became an employee
18 of A. L. Jinwright Funeral Services, she only earned 22,500.

19 And that's important. Because what we have here,
20 we had some questions of Mr. Gallagher and then we had some
21 testimony from Mr. Jinwright, who said, "Well, that \$66,000
22 figure we put on there, you know, that was really just a
23 projection. That's the anticipated earnings that Anthonae
24 was going to receive."

25 Well, you can look at the application all day

1 long, folks, you won't find the word "projection" anywhere
2 on there. The finance company that gets the credit
3 application and has to make the final decision about whether
4 to grant the credit or not would not have known that this
5 was a projected number. They would have thought that
6 Anthonae Jinwright earned \$66,000 as the vice president of
7 A. L. Jinwright Funeral Services in 2006.

8 But even more important? The reason why that
9 story falls apart, the reason why we know Mr. Jinwright
10 falsified that information, is it was not that Anthonae
11 Jinwright was going to be working at some unrelated company.
12 What Mr. Jinwright told Mr. Gallagher is, "She's going to be
13 vice president of my company making \$66,000 a year." And
14 the following year she was employed by Mr. Jinwright's
15 company, but she didn't make anywhere near \$66,000. She
16 made 22,500.

17 And even in 2008, two years after this application
18 was filed, Mr. Jinwright only paid his daughter \$47,000. In
19 other words, back in December of 2006, call it a projection
20 or otherwise, there was no way that he intended to pay his
21 just-graduated-from-college daughter \$66,000 a year; and the
22 proof is, he didn't do it.

23 So, folks, I submit to you that, notwithstanding
24 all the argument about whether this was a projection or not,
25 the application is false on its face and Mr. Jinwright

1 intended to defraud. He intended to defraud both that
2 finance company and he intended to create a false credit
3 record for his daughter which would be relied on by
4 financial institutions in the future.

5 Those are the mail fraud counts. And I submit to
6 you, ladies and gentlemen, that unless you believe -- oh,
7 and by the way, when push came to shove, Mr. Jinwright
8 surprisingly, but he did, he called Mr. Gallagher a liar
9 too.

10 So if you believe Mr. Jinwright, then you have to
11 disbelieve Mr. Gallagher, Mr. Howell and Mr. Johnson. But
12 worse, you have to believe that they walked into this
13 courtroom, put their left hand on the Bible, raised their
14 right hand, took that stand, looked you in the eye and lied.
15 If you believe that, you should acquit Mr. Jinwright as to
16 those mail fraud counts.

17 Let me talk to you about the false return counts,
18 that's Counts Eight through Thirteen of the indictment.
19 Now, both Mr. and Mrs. Jinwright are charged in those
20 counts. The elements are slightly different from the tax
21 evasion counts and so I will go over them separately but the
22 proof of the elements will be essentially the same.

23 The elements of the false return charges are that
24 Mr. and Mrs. Jinwright signed the tax return under the
25 penalties of perjury which they did not believe to be true

1 and correct as to every material matter and their conduct in
2 so doing was willful or -- and here's a big "or" -- or one
3 or the other willfully aided and abetted the other in filing
4 that false tax return.

5 The reason that's important, folks, and I want
6 pause for just a moment, is because there isn't any question
7 based on the evidence in this courtroom that Mr. Jinwright
8 earned the bulk of the money in that family. And similarly,
9 there isn't any question that most -- but not all -- that
10 most of the unreported income in this case was earned by
11 Mr. Jinwright in his capacity as the Senior Pastor at
12 Greater Salem Church.

13 But Mr. and Mrs. Jinwright filed a joint tax
14 return. And as I talk about the evidence, I believe you
15 will find -- the government submits that you will find based
16 on the evidence that Mrs. Jinwright was well-aware that the
17 tax return failed to report all of Mr. Jinwright's income
18 and failed to report all of her own income, and she aided
19 and abetted in the underreporting of Mr. Jinwright's income
20 as well as her own. And that's why that "or" is important.

21 I want to briefly just mention because we're going
22 to see this. One of the elements is that the return was
23 signed under the penalty of perjury. But on the modern tax
24 returns -- I'd have to look, I guess, at some of the most
25 recent ones -- I'm not even sure that that phrase even

1 appears anymore. That's what the status says and the Judge
2 has given you the instruction on it: That the penalties of
3 perjury is simply that certification above of the signature
4 line.

5 It tells you that everything you put on this tax
6 return has to be true and correct and you're responsible not
7 just for your signature, and they've tried to parse that a
8 little bit. You have heard some questions about the fact
9 that Mrs. Jinwright wasn't the -- wasn't the owner of
10 A. L. Jinwright Funeral Services and her name is not on that
11 Schedule C. True enough. But that Schedule C in those
12 early years was attached to the return that she signed.
13 She's responsible for the truth and accuracy of the return
14 in its entirety.

15 Signing a return, that simply means that the
16 individuals' names are on there. I don't believe there's
17 any dispute at all, let alone a serious dispute, that both
18 Mr. and Mrs. Jinwright signed each of the returns in
19 question. And again, those are the tax returns for the
20 years 2002 through 2007.

21 Knowledge of the contents of the returns. You
22 need to find -- or the law allows, rather, that you draw
23 inferences from certain facts. And again, circumstantial
24 evidence may be used by you in determining whether the
25 defendants understood those returns were not true and

1 accurate.

2 One of those inferences that you may draw is the
3 inference from the fact that they signed the tax returns.
4 If you find, for example, and as the Judge has already told
5 you, that they put their names on the tax return, you may
6 also find that they knew the contents of the return.

7 And the last -- the last question that you have to
8 address before we get to willfulness is whether the returns
9 are true as to every material matter. Again, the test for
10 materiality, as the Judge has told you, is whether an item
11 must be reported in order to correctly compute the amount of
12 tax.

13 This is an important distinction between the false
14 return charges and the evasion charges. You don't have to
15 find that there was a tax deficiency. And I will tell you
16 folks the reason why that becomes important is if you look
17 at the Schedule A's that we talked about on all these
18 returns, the one area that we focused on consistently was
19 the amount of charitable contribution. And I want to pause
20 just for a moment and talk about that.

21 I submit to you that the evidence in this
22 courtroom establishes that it was Mrs. Jinwright who was
23 responsible for taking the information to the tax return
24 preparer. We heard that in clear terms from Mr. Dawson, we
25 sort of heard that from Mr. Lancaster, and we heard it

1 unequivocally from Mr. Jinwright that she took -- gathered
2 up the information at the end of the year. She took the
3 information to the return preparer both for their personal
4 finances and also for A. L. Jinwright Funeral Services.
5 That she was essentially the bookkeeper for that company.
6 She is the individual who provided these summary sheets that
7 Mr. Dawson received and Mr. Lancaster.

8 If you look at those, folks, those are the
9 documents that the return preparers relied on in filling out
10 various forms on the tax return for Mr. and Mrs. Jinwright;
11 but one in particular that they relied on was the amount of
12 claimed charitable contributions.

13 Now, the evidence in this courtroom is that every
14 year Mr. and Mrs. Jinwright received, just as every other
15 parishioner at Greater Salem Church received, a statement of
16 charitable contributions. And we examined those. And in
17 the early years, in 2002 -- 2001, 2002 and 2003, for one
18 year they matched -- their charitable contributions on their
19 tax returned matched almost to the penny what Chitwood &
20 Chitwood said that they had actually contributed.

21 In the earliest year I think they were off by
22 about \$10,000 in their statements. But then as you look at
23 the tax returns, if you're so inclined, the amount of
24 charitable contributions claimed on the tax returns started
25 to exceed by larger and larger amounts what was on the

1 charitable contribution letters you see from the church.

2 And I submit to you that what happened here is
3 somewhere along the way as their income increased,
4 Mrs. Jinwright was looking for ways to find deductions to
5 decrease the tax liability and that was an easy one.
6 Because they are pastors of the church. Who is going to
7 question the pastors of the church making charitable
8 contributions to their own church? The return preparer
9 certainly didn't. He took whatever number Mrs. Jinwright
10 put on these schedules and he put it on the Schedule A.

11 But we submit to you, ladies and gentlemen, that
12 the true evidence came from the church's internal records
13 which reflected how much money they actually contributed;
14 and Mrs. Jinwright is responsible for the falsification of
15 those tax returns, at least as to the amount of the
16 overstated charitable contributions.

17 The last element of filing a false tax return is
18 willfulness. Judge Whitney has already told you that
19 willfulness is an voluntary and intentional violation of a
20 known legal duty. In other words, the government has to
21 prove the defendants knew they had an obligation to report
22 certain amounts of income and that they voluntarily, as
23 opposed to accidentally, that they voluntarily and
24 intentionally omitted income from their return or overstated
25 charitable contributions in this case. And I am going to

1 tell you about that as well.

2 We looked at -- and again, if you're inclined, but
3 you don't need to for this case -- if you're inclined, you
4 will find that there are plenty of other things on these
5 summary schedules that could be called into question. And
6 we've identified them for you: \$100,000 worth of robes in a
7 six-year period. Car washes, \$5,000 a year. Landscaping.
8 They are full of items, ladies and gentlemen, I submit to
9 you that are suspect.

10 But I want to save you some time and tell you that
11 Ms. Polk's summaries do not include any of those suspect
12 deductions for any year or any part of the return. They are
13 not part of our allegation of unreported income or
14 overstated expenses in this criminal case.

15 Remember Ms. Polk's testimony. What she said is,
16 "As a revenue agent, I have plenty of reason to challenge
17 some of those other deductions, but Mr. Brown said, 'Don't
18 bother; there's enough unreported income in the charitable
19 contributions that are overstated.'" That all makes up her
20 summary schedules.

21 What I submit to you, that gives you reason to
22 believe that Mrs. Jinwright again was actively involved in
23 the filing of false tax returns because of the suspect
24 deductions that are on those summary schedules.

25 Again, willfulness is a common element with both

1 the tax evasion charges and the false return charges. And I
2 believe Judge Whitney is going to actually instruct you that
3 willfulness is an element of the conspiracy charge as well.
4 So I will consider that issue after I finish going through
5 the remaining elements of two remaining charges. Let me
6 move on to the tax evasion charges.

7 Proof of a tax evasion or attempted tax evasion
8 requires unifying that there was an affirmative act
9 constituting an evasion or an attempted evasion of the tax
10 and the existence of a tax deficiency and willfulness or
11 willfully aiding and abetting.

12 Judge Whitney has explained the law on aiding and
13 abetting to you. I'm not going to spend much more time on
14 aiding and abetting, I simply want to highlight it for your
15 attention. Let me deal with the other elements that make up
16 the tax evasion, again setting the element of willfulness
17 apart for the moment.

18 Most of the evidence which pertains to these
19 charges also again provides proof that the tax returns are
20 false as charged in the 7206(1) counts. There's some
21 evidence which only pertains to -- well, and, in fact,
22 pertains to the conspiracy count as well. However, there is
23 some evidence that is only applicable to the conspiracy
24 count.

25 And so I want to talk about the conspiracy count

1 next and talk about those specific items of evidence which
2 you should only apply to Count One of the indictment; and
3 then I will talk about the remaining evidence which applies
4 to all of the tax fraud counts, that is, the conspiracy, the
5 evasion charges and the false returns charges.

6 Now very quickly, the elements of the conspiracy
7 count are an agreement between two or more people to
8 accomplish an unlawful plan, an overt act in furtherance of
9 the conspiracy, and that the defendant under
10 consideration -- and you must consider both Mr. and
11 Mrs. Jinwright separately in determining their involvement
12 in a conspiracy -- is that the defendant under consideration
13 deliberately joined the conspiracy understanding what the
14 purpose of it was.

15 Let me go through those elements very quickly and
16 give some explanation.

17 Conspiracy, ladies and gentlemen, is simply a
18 partnership in crime. Now, there's no contract in this
19 courtroom anywhere. You can look through all the thousands
20 of pages of documents we introduced and you won't find a
21 document signed by Mr. and Mrs. Jinwright that says, "We,
22 undersigned parties, hereby agree to conspire to defraud the
23 United States." That's not how it works. It is a tacit
24 understanding; it is an agreement usually only proveable by
25 the circumstantial evidence.

1 One of the things that Judge Whitney told you
2 which is important to remind you of is determining whether
3 there was a conspiracy, determining the existence of a
4 conspiracy is often available when you look at the
5 relationship between the co-conspirators. If you look at
6 the length of that relationship between the co-conspirators,
7 what do we have here? We've got a husband and wife.

8 Oh, and the third factor that Judge Whitney
9 mentioned, what's the nature of the conspiracy?

10 And I don't want to dwell on hypotheticals; but
11 again, if you can think of unrelated parties in your own
12 mind who have only a very brief relationship and they are
13 involved in some wide-ranging activity, maybe then it would
14 be difficult to find that they were conspiring to do
15 something.

16 But here, working backwards through those factors
17 that Judge Whitney has already told you about, the
18 conspiracy here is to defraud the Internal Revenue Service.
19 Which you can find -- you can find them guilty of if you
20 find that they conspired to file false tax returns.

21 We're talking about a husband and a wife here who
22 filed joint tax returns. So the unique -- the unique nature
23 of the conspiracy charge, and the relationship between
24 Mr. and Mrs. Jinwright as husband and wife, and that
25 relationship to the charge itself, provides you evidence

1 that what they did individually was part of a joint
2 agreement.

3 The other factor that you need to consider or the
4 other element is that they intended to defraud the United
5 States. In fact, what they intended to do was impede or
6 impair the ability of the Internal Revenue Service to carry
7 out its lawful function.

8 And that's important to remember, folks. It is
9 not simply an agreement to cheat on their taxes. It's not
10 simply an agreement to file false tax returns. And that's
11 why there are some pieces of evidence in this case that
12 demonstrate, I submit to you, an agreement to defraud the
13 United States. An agreement to impair the Internal Revenue
14 Service's ability to carry out its lawful functions, which
15 are unrelated to Mr. and Mrs. Jinwright's personal tax
16 liabilities.

17 Let me go through those particular items of
18 evidence and those particular types of evidence which we
19 submit to you demonstrate an intent to defraud the IRS.

20 One is that the defendants filed a false Tax
21 Exempt Application with the Internal Revenue Service. That
22 has nothing to do with their personal tax liabilities. But
23 as you will -- but as we will talk, you will find that that
24 had the ability to impede the Internal Revenue Service in
25 carrying out its lawful function.

1 Second one is Mr. and Mrs. Jinwright blocked
2 repeated efforts to have Addie Porter, Mrs. Jinwright's
3 mother, to receive a Form 1099. That had nothing to go with
4 Mr. and Mrs. Jinwright's personal tax liabilities, but that
5 conduct impeded the Internal Revenue Service in carrying out
6 its lawful functions.

7 The defendants filed false amended tax returns
8 through Tiari-El & Associates that had sort of a
9 relationship with their personal tax liabilities, but really
10 the evidence shows that they were looking for a false and
11 fraudulent tax refund of about \$160,000.

12 And the defendants repeatedly facilitated or
13 caused the creation of and submission of false financial
14 reports to the congregation of Greater Salem Church.

15 And again, this investigation and prosecution is
16 not about Greater Salem Church. But by submitting those
17 financial reports which were false to the congregation,
18 Mr. and Mrs. Jinwright necessarily would impede the Internal
19 Revenue Service from carrying out its lawful functions. Let
20 me talk to you about those very quickly in order.

21 A false tax exempt application. If you can read
22 it on the screen, the first line of that letter which is
23 approving the tax-exempt status for Greater Salem Church,
24 says, "Based on information supplied, and assuming
25 operations are as stated," and then it goes on to say, "we

1 authorize Greater Salem Church to be tax-exempt."

2 In other words, that tells you the Internal
3 Revenue Service was relying on the information that was
4 provided in that document.

5 That document contained false information. If we
6 look at one particular page of it, it shows that
7 Mr. Jinwright's income was \$245,000; when you look at his
8 tax return in a moment, you'll see that his wages were far
9 in excess of -- were \$200,000 alone plus a housing allowance
10 of \$130,000 more.

11 But more importantly, if you look on there it
12 shows that Mrs. Jinwright's income was zero. But, in fact,
13 Mrs. Jinwright was receiving about \$128,000 of income at the
14 time -- from Greater Salem Church, no less, at the time this
15 application was filed.

16 Why is that important? As you recall the
17 testimony, there had been two failed efforts for Greater
18 Salem Church to get tax-exempt status. They had tried and
19 the IRS rejected it, and they rejected it on the basis of
20 excessive compensation to Mr. and Mrs. Jinwright.

21 The IRS was not going to grant tax-exempt status
22 under 501(c)(3) to a charitable organization when the bulk
23 of the net earnings of that organization was going to
24 private individuals, and the IRS told them that. They tried
25 a second time. That is, Greater Salem Church tried a second

1 time to get tax-exempt status; and, again, the IRS rejected
2 it on the theory that it was private inurement, excessive
3 compensation. They were getting too much of the net
4 proceeds from this charitable organization.

5 So what do the defendants need to do? They needed
6 to show that they were making less money from this church
7 than they actually were. And the IRS would not -- as we
8 looked at page 1 of the document, if they had known the true
9 amount of income that Mr. and Mrs. Jinwright were taking
10 from Greater Salem Church they wouldn't have approved the
11 application for the third time.

12 So it was important for Mr. and Mr. Jinwright to
13 lie about how much money they were getting.

14 Now, remember, there was a lot of talk in this
15 courtroom about, "Well, they didn't even come up with the
16 idea to get a tax-exempt status until they started
17 considering the faith-based issues under the Bush
18 administration." That wasn't true. We showed you the board
19 minutes all the way back in the Clinton administration when
20 Mr. Jinwright, for whatever reason, had a desire to have his
21 church declared a tax-exempt organization. And he had been
22 working methodically from 1998 until finally succeeding in
23 2004 to obtain that tax-exempt status.

24 So he knew very well what the problems were in
25 getting tax-exempt status. He and his wife were making too

1 much money from the charitable organization. So what they
2 did here, they simply falsified the amount of money they
3 were given and submitted that document to the Internal
4 Revenue Service.

5 If we go back to another portion of the document,
6 at one point the IRS, apparently they scrutinized this --
7 this slide shows you amounts of money Mr. and Mrs. Jinwright
8 were making compared to what they were reporting on the
9 tax-exempt status. Again, Mrs. Jinwright had \$128,000 worth
10 of income and Mr. Jinwright had wages of over \$200,000 and a
11 housing allowance of 130 on top of that. So again, both of
12 those amounts were false.

13 The Internal Revenue Service apparently
14 scrutinized all the pieces of paper that they got and they
15 recognized that there were inconsistencies in what they were
16 being told. If you remember, there was a letter where they
17 said, "Well, one time you told us Mr. Jinwright was
18 receiving \$275,000. Now you're telling us he's getting
19 \$245,000. But if we look at this other document that you
20 sent us, it shows that he's getting \$600,000. What's the
21 truth?" The IRS wanted to know.

22 So Mr. Howze tried to reconcile all this
23 information, as he told you. He went back to the finance
24 people and he said, "What's the deal? How much is
25 Mr. Jinwright actually getting in compensation from Greater

1 Salem Church?" And he said he was provided the information
2 that is on that fax back to the Internal Revenue Service
3 designed to explain the inconsistent amounts of
4 compensation.

5 But the one thing that Mr. Howze put on there is
6 that the \$600,000 figure represented a portion of money that
7 was earned by Greater -- by A. L. Jinwright Funeral
8 Services. And as I've shown repeatedly in this courtroom, I
9 can't do math. And so I kept looking at the \$600,000 and
10 Mr. Hinson eventually pointed out to me, "No, it's 600,000
11 minus the 245 or 250," whatever it is.

12 So, in fact, what that fax says is \$300,000-plus
13 of income in that \$600,000 figure is attributable to
14 A. L. Jinwright Funeral Services. That's what Mr. Howze
15 told the IRS.

16 Mr. Howze told you he didn't just make that number
17 up either. He got that information from the finance people
18 at Greater Salem Church. But there's a problem with that.

19 As Mr. Jinwright admitted to you -- and that's why
20 I was asking him all the questions about who at Greater
21 Salem Church has anything to do with A. L. Jinwright Funeral
22 Services? And what he said repeatedly is, nobody. Nobody
23 but him, or Mrs. Jinwright.

24 So while it may be that Mr. Howze talked to
25 Jennell Barnett or one of the other folks, Jacqueline

1 Joyner, about that \$600,000 figure and may have gotten
2 information that some part of that \$600,000 figure came from
3 the A. L. Jinwright Funeral Services, they would not have
4 known that. They only would have been able to report what
5 they were told. And who would have told them that false
6 information? Mr. or Mrs. Jinwright.

7 You heard what Mr. Jinwright said, "It wasn't me."
8 You get to decide whether he's telling the truth or not; but
9 if he's truthful on that point, if it wasn't him, then what
10 he's saying is, "I guess my wife gave them that."

11 One of the two of them for sure provided the false
12 information about A. L. Jinwright Funeral Services making up
13 any part of that \$600,000 figure; one or both of them did.
14 What we know for sure is nobody else at Greater Salem Church
15 could have; and we know that that amount is false because
16 when you look at the tax returns for A. L. Jinwright Funeral
17 Services, it reported a loss, not \$300,000 of income.

18 Now, Mr. Tate spent several minutes trying to get
19 you to look up at the gross receipts line of that business.
20 And again, folks, Judge Whitney has already told you and I
21 want to repeat it: You're entitled to use your common
22 sense. The gross receipts line is simply the amount on the
23 top of that document that states the total amount of money
24 that came into that business. But we've walked down through
25 those returns long enough for you all to understand, if you

1 don't have your own personal understanding of how the
2 business returns are filed, that it's only the bottom line
3 that tells you whether there is income or a loss.

4 So if you want to go back up and look at the gross
5 receipts, then you have to read through the cost of goods
6 sold and all of the deductions and the expenses that were
7 taken. The bottom line is that A. L. Jinwright Funeral
8 Services reported a loss of \$25,000, not \$300,000 of income.
9 And the evidence you've seen in this courtroom is that
10 A. L. Jinwright Funeral Services only one time ever reported
11 any income, \$5,000 in one of the later years. But
12 consistently year after year after year that company
13 reported a loss so Mr. and Mrs. Jinwright would have known
14 that no income they said was attributable to that company on
15 that tax exempt application could have come from
16 A. L. Jinwright Funeral Services.

17 On the basis of that conduct alone you can convict
18 Mr. and Mrs. Jinwright of Count One.

19 Let me talk to you about the Forms 1099 to Addie
20 Porter. Darlene Perkins came in and testified that she told
21 both Mr. and Mrs. Jinwright that Mrs. Porter should be
22 receiving a 1099 for her employment in the afterschool
23 program at Greater Salem Church. Mrs. Jinwright said, "No
24 way." Mrs. Porter was collecting a Social Security benefit;
25 and I believe what Ms. Perkins told you is, "If we reported

1 income for her, that would reduce her Social Security
2 benefit. We don't want the IRS to know Mrs. Porter is
3 earning income." So she said no.

4 Ms. Perkins went to Mr. Jinwright about it, he was
5 little less adamant. He said, "Well, I think my accountant
6 said we don't have to do that."

7 We heard a lot about his accountant telling him he
8 didn't have to do certain things in this courtroom. But in
9 any event, no 1099 was filed for Addie Porter while Darlene
10 Perkins was there.

11 Now, Nelson Adesegha came on board the next year
12 with his finance background; and he discovered, just like
13 Ms. Perkins did, that Addie Porter is receiving income from
14 Greater Salem Church. And he said she needs to get a Form
15 1099.

16 He went to Mr. Jinwright and talked to him about
17 it. Mr. Jinwright said, "No, I don't think we need to do
18 that." He went to Mrs. Jinwright and she was furious.
19 "There is no way you're issuing a 1099 to my mother which
20 would reduce her Social Security payments."

21 Nelson Adesegha did some research. He went back
22 and he said, "Look, this is what the law requires."
23 Mrs. Jinwright said "No."

24 He kept waiting for this call from an accountant
25 that was going to explain to him why he was wrong and he

1 never got it, and he wasn't going to get it. He did a
2 little more research and he did a little more thinking about
3 it, and then he went back -- he didn't issue the 1099, by
4 the way, in 2004, which was his first year there.

5 But he went back the next year and he made it
6 clear to Mrs. Jinwright, "I'm the finance administrator
7 here. I'm responsible for the finances of the church.
8 Mrs. Porter needs a 1099 and I'm issuing one."

9 What happened to Mr. Adesegha? Mr. and
10 Mrs. Jinwright went out of town. Mrs. Jinwright calls back
11 and told Travis Mauney, "You fire him. I want him gone when
12 I get back."

13 Nelson Adesegha didn't get a chance to file that
14 1099 for Mrs. Porter and she didn't get one in 2005.

15 Even the Board of Directors identified on their
16 own through their examination of the financial information
17 of the church that Mrs. Porter was being paid as if she were
18 earning an honorarium. Now, that still should have
19 generated a 1099. But what even the Board of Directors
20 determined -- that is, Mr. Gandy and Ms. Chiles -- said that
21 this is illegal. She needs to get a 1099.

22 The evidence in this courtroom, folks, is
23 Mrs. Porter did not get a 1099 when Darlene Perkins was
24 there, she didn't get a 1099 when Nelson Adesegha was there,
25 and she didn't get a 1099 when Travis Mauney was there in

1 '05 or '06. And that's because Mrs. Jinwright put her foot
2 down and said, "My mother doesn't get a 1099," and
3 Mr. Jinwright backed her up.

4 If you find that the evidence is as I just
5 outlined it for you, that conduct alone is sufficient for
6 you to convict Mr. and Mrs. Jinwright on Count One of the
7 indictment.

8 Let me talk to you about those false amended tax
9 returns. Very quickly, you remember Mr. Lancaster had been
10 their tax return preparer since the mid '80s. These
11 documents were filed in 2003. And if you hear Mr. -- if you
12 listen to Mr. Jinwright's testimony, what he said is "We had
13 this individual at our church who prevailed on us to go to
14 see this seminar." He didn't even tell us what it was
15 about.

16 This busy man -- who is going from to church to
17 church to church for speaking engagements and trying to take
18 care of his own flock at his own church and his personal
19 life -- found time to go to a seminar that he had absolutely
20 no idea what it was about. I submit to you, ladies and
21 gentlemen, that's not a truthful statement.

22 He and Mrs. Jinwright were thinking about taxes.
23 They knew what this was about. They went to meet with
24 Tiera-El and Company so they could figure out if they would
25 be eligible to get \$160,000 in false and fraudulent tax

1 refunds.

2 Mr. Jinwright said, well, about a week after they
3 went to this meeting they got cold feet and they called
4 Ms. Tiera-El up and they said, "No, don't file those
5 documents on our behalf. We don't really want -- want to
6 get involved in this and we don't want you to do it."

7 The only evidence to support that in this
8 courtroom is the testimony of Anthony Jinwright. Because a
9 couple of things happened. If you recall Mr. Jinwright's
10 testimony, and I asked him specifically, "Did you get cold
11 feet after you learned a couple weeks after you visited with
12 Ms. Tiari-El in February, did you cold feet when you heard
13 and when you and read the newspapers about the search
14 warrants that were executed by the Internal Revenue Service
15 at the business premises of Tiari-El and Company?"

16 "Well, Mr. Brown, I heard about those search
17 warrants but we had already decided to get out of this
18 before this happened."

19 You're the judges of the credibility on that. The
20 fact of the matter he never went and talked -- they never --
21 I say "he." They went to that seminar, Mr. and
22 Mrs. Jinwright went to that seminar with Tiari-El and
23 Company. They never talked to their return preparer, Mr.
24 Lancaster, about this before they went, after they went, at
25 all.

1 They didn't call him up and say, "Terry, we have
2 been doing business with you ten or 15 years now. We have
3 just been to a seminar where they tell us that there is this
4 program for indigenous people that entitles us to \$160,000
5 of tax refunds. What do you think, Terry?"

6 Of course, they didn't call Terry Lancaster and
7 ask him that because he'd have said, "That's a fraud.
8 That's a scam. If you're involved in it, you can go to
9 jail."

10 They didn't call because let those things get
11 filed and wait to see if they get their tax refund. Well,
12 the next notice they got from the IRS was not a tax refund;
13 almost two years later they get letter from the IRS that
14 says, "You all filed a fraudulent tax return with us and
15 we're going to give you an opportunity to get out from under
16 this mess that you're in."

17 And sure, by then they knew search warrants had
18 been executed. By then there were public reports of
19 Tiari-El and Company being put out of business. In fact, by
20 then Tiari-El and Company had been indicted in a publicly
21 filed indictment.

22 They signed those forms and sent them back to the
23 IRS. They probably held their breath and said, "Gee, I hope
24 they don't call us about that stuff again."

25 But you know what they also didn't do? They

1 didn't call Terry Lancaster. They didn't say, "Terry, we
2 got involved in something here. What do you think, what's
3 your advice?" They were just hoping it went away, and
4 that's where they hoped it would stay until they found
5 themselves in the context of this case.

6 Now, one other thing it's important to talk to you
7 about; remember again the testimony of Mr. Jinwright. I
8 asked him again on recross-examination, I said, "Are you
9 telling this jury" -- and you can see the check. The first
10 story -- in fact, I want to back up a step.

11 The first story he told was, you know, they really
12 didn't even know anything about that. These tax returns,
13 they seemed to have their name and address on it and their
14 Social Security numbers, but those weren't their signatures.
15 Those signatures were forged by somebody. We don't know
16 anything about this.

17 Then we brought the check out. They're like now
18 they had a problem. He had to say he knew a little bit
19 about something. Of course, it says right on there "1040X
20 Amended," and so he knew quite a bit about the something.

21 But when he took the stand, what he told you was,
22 "Yeah, again, we went to this meeting. I wrote them a
23 check. We were going to do it. Then we got cold feet and
24 we bailed out."

25 And I said, "Well, Mr. Jinwright, are you telling

1 this the jury that after you called Tiari-El up and said,
2 'We don't want to file these,' that she went ahead and
3 forged your signature and Mrs. Jinwright's signature to
4 those tax returns and filed them anyway?"

5 "Yeah, that's -- those signatures are forged. We
6 didn't authorize that. We didn't approve it. We were
7 already done with this mess and so I have no idea how those
8 got filed."

9 Then we brought out the power of attorney. They
10 authorized Tiari-El and Company to file those tax returns on
11 their behalf. They were seeking \$160,000 in fraudulent
12 claims and they would have been successful except that the
13 whole scam came apart. Tiari-El and Company ended up having
14 their premises searched and so the defendants didn't get
15 their tax returned.

16 But if you find that they were responsible for the
17 filing of those fraudulent -- false and fraudulent claims
18 for refund then you may find them guilty on that basis alone
19 on Count One of the indictment as well.

20 The fourth piece of evidence I want to talk to you
21 about pertaining only to the conspiracy count is the false
22 financial reports that were submitted to Greater Salem
23 Church.

24 Now, you heard testimony and you heard a lot of
25 questions about the fact that churches don't have to obtain

1 a tax-exempt status. They are a charitable organization as
2 a matter of right and the IRS doesn't involve itself with
3 churches unless -- unless that church seeks tax-exempt
4 status and seeks to get the benefits and assumes the
5 responsibilities of becoming a 501(c)(3) tax-exempt
6 organization. And that, at Mr. Jinwright's urging, is what
7 Greater Salem Church did finally in early 2004.

8 Once they did that, however, the Internal Revenue
9 Service now has an interest in the church. They have the
10 right to come in and audit and determine whether there is
11 private inurement or excessive compensation being paid.
12 They have the right to look at the financial records of the
13 church. So it would be important to the Internal Revenue
14 Service whether the financial reports that are being
15 prepared at Greater Salem Church are truthful and accurate.
16 And we know they weren't.

17 Darlene Perkins told you that in December of 2003,
18 even though Greater Salem Church was in financial disarray,
19 the financial report submitted to the Greater Salem Church
20 congregation showed that the church was operating in the
21 black.

22 She told you that anybody on the budget committee
23 knew the church was in dire financial straits. Who sat on
24 the budget committee? Mr. and Mrs. Jinwright.

25 She told you that anybody who sat on the Board of

1 Directors would have known the church was in financial
2 trouble. Who sat on the Board of Directors? Mr. and
3 Mrs. Jinwright.

4 And they orchestrated the falsification of
5 financial reports to the congregation of Greater Salem
6 Church to conceal from their own parishioners the fact that
7 they were taking all this money out of the church and, at
8 least in part as a result of that, the church was in
9 financial disarray.

10 As Mr. Jinwright said at one point to someone, "If
11 we tell them the truth, they will stop giving." So he and
12 Mrs. Jinwright, including Darlene Perkins for 2003,
13 Mrs. Jinwright specifically manipulated the financial data
14 on the report, either reduced amount of expenses or
15 improperly increase the amount of income to falsify the
16 information presented to the congregation for that year for
17 the purpose of deceiving the congregation. But the
18 corollary to what they did is that false financial data
19 would also impede the Internal Revenue Service in fulfilling
20 its lawful functions.

21 Mr. Adesegha said he came on in 2004. When he
22 came on in October, his word was the church was bankrupt.
23 He told the Board of Directors, "The church is insolvent."
24 Yet he saw the financial report submitted to the church
25 congregation. He didn't go to that meeting because he

1 wasn't a member of the church; but he saw the report that
2 was submitted. It wasn't the same one that he gave the
3 Board of Directors. It wasn't the same one he discussed
4 with Mr. and Mrs. Jinwright.

5 His report showed the church was upside down in
6 the red. The one that went to the congregation falsely said
7 the church was operating in the black.

8 He wasn't around for the 2005 report, but you can
9 see it up there. By that time Travis Mauney was on board.
10 Mr. Mauney told him the same thing happened under his watch.
11 When he came in, the church was in financial crisis. What
12 was the congregation told? That they had a net operating
13 revenue. And the reason was because Mr. and Mrs. Jinwright
14 didn't want the congregation to appreciate or to know how
15 far in the hole the church was in part, I submit to you,
16 because then the church might have taken some drastic steps
17 to curtail the amount of money they were receiving. And as
18 Mr. Jinwright said, that would impede his standard of
19 living. As Mrs. Jinwright said, she could make more money
20 on the outside if they were going to cut her salary. And so
21 they lied to their own congregation.

22 Again, the corollary to that is they necessarily
23 also created false documents that impeded the Internal
24 Revenue Service. And on the basis of those false documents
25 alone, you can find Mr. and Mrs. Jinwright guilty of Count

1 One of the indictment.

2 Let me now talk to you about the two remaining
3 elements that are sort of common to the conspiracy, the
4 evasion, and the false return charges, unreported income,
5 the tax deficiency, and then willfulness.

6 Ms. Polk came into the courtroom and provided you
7 with a summary which reflects that for every year charged in
8 the indictment Mr. and Mrs. Jinwright had underreported
9 income. I'm not going to go through all the numbers. We
10 went through her subschedules.

11 What you would be able to see is as we did when
12 she was on the stand that the bulk of the unreported income
13 is attributable to Mr. Jinwright, but Mrs. Jinwright omitted
14 her own income as well. That for each of those years there
15 was a tax deficiency.

16 Remember, the amount of tax deficiency is not
17 important. It's the fact that there is an additional tax
18 due and owing for each of the years. That's an element of
19 the evasion counts; you just walk across that bottom line on
20 that schedule, you can see there's a tax deficiency.

21 But with respect to the false return charges, with
22 respect to the conspiracy charge, and with the respect to
23 the evasion charges, the first consideration is: Was there
24 income which Mr. and Mrs. Jinwright earned and did not
25 report on their tax returns?

1 Folks, we've spent a lot of time talking about
2 what is and isn't income in this courtroom. Did you hear
3 the cross-examination of Ms. Polk when she was on the stand?
4 There was no serious challenge on any number on her
5 schedules.

6 Those schedules are based on the evidence in this
7 courtroom. Those schedules reflect unreported income and
8 tax deficiencies. There is no contrary evidence in this
9 courtroom. So when my colleagues come up here and start to
10 talk with you, keep in mind that is the only evidence in
11 this courtroom about unreported income. It is the only
12 evidence in this courtroom about tax deficiencies.

13 The time to challenge that one was when Ms. Polk
14 was on the stand. It -- it was then, it is now
15 unchallenged. So unless you find that Ms. Polk simply is
16 incredible and she made those numbers out of whole cloth,
17 that they are not based on the evidence as she told you,
18 then whether there was unreported income in this case is now
19 a conclusion, not a question. And the tax deficiency as she
20 told you simply flows from that fact.

21 And that gives me an opportunity to remind you of
22 some of the Judge's instructions that he has already given
23 you.

24 The evidence in this case, folks, is the testimony
25 from the witnesses who took the stand. It is documents we

1 have shown you throughout this trial. What is not evidence,
2 however, as the Judge has already told you -- he gets to
3 give you the law. In other words, whatever we argue to you
4 now about what we think the law is, it ought to at this
5 point in time be consistent with what the Judge has already
6 said; because if it isn't, I'm sure he will correct our
7 misstatements. And you will be bound by what he says, not
8 what we -- not what we say.

9 But the other instructions I want you to remember
10 that the Judge provided is that, again, the evidence in this
11 case are the documents and the testimony. It's not the
12 argument of us lawyers. It's not the questions of us
13 lawyers, you know, where the answers seems to be built into
14 the question. That isn't the evidence. It's what the
15 witness says in response to the question.

16 And so, in terms of whether there was unreported
17 income in this case and whether love offerings constitute
18 income and whether there's spiritual value from the speaking
19 engagements that Mr. and Mrs. Jinwright went to, those are
20 all good questions. But the evidence in this courtroom came
21 from Ms. Polk's summary that's also income.

22 Let me talk to you about the unreported income in
23 this case.

24 There are really three categories of unreported
25 income. There are the payments from the employer to the

1 employee; that is, all the money that Mr. and Mrs. Jinwright
2 received from Greater Salem Church.

3 There is the income which might be excluded or
4 deducted but for the failure to comply with regulations. In
5 other words, as you've heard, you may be able to exclude
6 certain travel payments, you may be able to exclude or
7 deduct certain business expenses; but you don't get to
8 exclude or deduct those just because you want to. You have
9 to substantiate them.

10 In other words, those payments, just like a
11 salary, are income unless the rules are met; in which case,
12 they can be excluded from income or deducted from income.
13 But you start with the premise that they are income.

14 And what has been the repeated theme in this
15 courtroom? No substantiation. Perkins told you that.
16 Joyner told you that with a couple of exceptions; and I will
17 tell you that those exceptions that she told you about are a
18 couple of checks to Mrs. Jinwright from the Women of Faith
19 checking account, Ms. Polk took those out of her summary
20 schedule.

21 So there is no evidence, there is no amount of
22 income in Ms. Polk's schedule based on her testimony for
23 which there is any substantiation or discussion of
24 substantiation. But every payment that Mr. and
25 Mrs. Jinwright received for which there was no

1 substantiation is properly included in Ms. Polk's schedule;
2 and there been no other evidence of substantiation and there
3 is no evidence of substantiation in this courtroom. And
4 again, the evidence is to the contrary.

5 Ms. Perkins, Mr. Adesegha, Mr. Gandy and others,
6 Mr. Mauney, all said that they never received any
7 substantiation for the so-called business-related expenses
8 that the defendants received.

9 The third categories of unreported income are the
10 fees for services rendered. Those were the -- those were
11 the payments that we talked about at some length with
12 various members of various churches who came in here and
13 told you they had given an honorarium or love gift to
14 Mr. and Mrs. Jinwright.

15 Those are -- those are the ones I suppose I want
16 to talk to you for just a couple of minutes. There were a
17 lot of questions again if you recall -- in fact, probably
18 after we called, oh, maybe ten back from the last witness we
19 brought in from the church, you all probably could have
20 recited by heart the questions Mr. Randall and I were going
21 to ask and then probably recited by heart the questions that
22 were going to get asked by our colleagues. But with the
23 same colloquy every time.

24 But if you listened to the answers carefully you
25 heard a common theme from those church witnesses. And

1 remember, you heard not just from accountants or CPAs or
2 bank examiners, you heard from witnesses with no formal
3 accounting training, you heard from fellow pastors, you
4 heard from members of the families of Mr. and
5 Mrs. Jinwright's spiritual family, like John McCullough.

6 There was a common theme in what they said. They
7 all told you all payments were for speaking at spiritual
8 events. They all told you that those were considered to be
9 love offerings to a man and woman of God because it's hard
10 to characterize a payment to a minister as income.

11 Thank you.

12 They also told you, however, that those were all
13 fees for services rendered, and that all checks were in
14 their opinion income. We saw Forms W-9 that were routinely
15 submitted by Mr. and Mrs. Jinwright. We saw Forms 1099 that
16 was sometimes issued by the churches. Those are examples of
17 the evidence that shows that Mr. and Mrs. Jinwright knew it
18 was income.

19 In fact, Mr. Jinwright said they always send out
20 Form W-9. The only reason you send out Form W-9 is because
21 you anticipate receiving income. And they received Forms
22 1099 because they received income. But whether there was a
23 spiritual value to those speaking engagements is not an
24 issue before you. Whether or not the people that gave them
25 that money intended it to be from the love of their heart is

1 not an issue; because, to a witness, every witness said two
2 things that are critical to your determination as to whether
3 that's income: They were all fees for services rendered and
4 not one witness said, "We would have paid that money if the
5 defendants hadn't come to our church and spoken."

6 That tells you, without trying to minimize the
7 spiritual value of their participation in the spiritual
8 event, they got paid for doing their job. And that's
9 income.

10 I intended to, but my time is slipping away. I
11 intended to go line-by-line through a number of these
12 witnesses; but again, you heard them all. I submit to you
13 that if your recollection is different than mine, you should
14 rely on yours.

15 But I submit to you that there wasn't one person
16 who came in here who said, "We would have paid them this
17 gift if they hadn't spoken at our church." It was a fee for
18 services rendered.

19 And the one thing I'll show you. When we started
20 this, you all thought, "What in the world is he doing, that
21 kindergarten chicken scratch?" Honorariums, love offerings,
22 love gifts are income.

23 And let's look at whose initials are on here real
24 quick. We had Pastor Pierce, who came in and told you, "I
25 have always considered love gifts, love offerings and

1 honorariums to be income."

2 We had Pastor McCullough, spiritual son of Anthony
3 Jinwright, who came in and said, "From 2001 forward I have
4 understood that whether it's called an honorarium or a love
5 offering or a love gift that it's income, which is why we
6 issued Form 1099."

7 You had Mr. Dawson come in and tell you the same
8 from an accounting perspective. It doesn't matter what the
9 label you put on it; if it's a fee for services, it's
10 income.

11 And we had Pastor Mickens come in and say, you
12 know, "Was it intended to reward Mr. and Mrs. Jinwright for
13 the spiritual value? Sure. Was it intended to be a gift?
14 Absolutely. Were we gratified to have him come to our
15 church? Surely. Would I have him back? Absolutely. Did I
16 consider it income? Of course I did."

17 "Weren't you confused about that, Pastor Mickens?"
18 He wasn't confused for 20 years, he told you. His board was
19 not a rubber stamp. They set compensation guidelines for
20 his church of how much they would pay outside speakers. And
21 said, "We have been doing it that way for 20 years. This
22 isn't confusing. Just because we want it to be a gift
23 doesn't mean the government doesn't think it's income, and
24 so we issued 1099s."

25 Even Mr. Jinwright -- even Mr. Jinwright, as much

1 as he wanted to talk about all the confusion, when he was
2 forced to recognize that his own church was issuing 1099s
3 back in 2001 that he was receiving 1099s from his spiritual
4 son, Mr. McCullough, when he said he was receiving 1099s
5 from his spiritual father, Mr. Dennis, had to say, "Well, as
6 some point I was somewhat less confused, yes."

7 Let me tell you what I think this case is really
8 all about. This is -- the case is not really about whether
9 this was unreported income. That's clear from Ms. Polk's
10 schedule, which is unchallenged. It's not about whether
11 they were receiving income for going -- Mr. and
12 Mrs. Jinwright were receiving income for going out on
13 speaking engagements. Despite the fact that they want you
14 to believe that this was somehow a confusing issue, it
15 really isn't. And again, Ms. Polk's schedule demonstrates
16 that that is reportable income which the defendants failed.

17 What this case boils down to, folks, I submit to
18 you after four weeks, is one issue: Willfulness. Did
19 Mr. and Mrs. Jinwright knowingly and voluntarily omit income
20 which they knew they had the obligation to report on their
21 tax returns? Did they omit that from those tax returns with
22 the intent to evade their taxes? And we submit to you that
23 they did, and the evidence that they knew they had an
24 obligation to report more than they did came from an variety
25 of sources. Let me quickly go through them.

1 We provided you with an expenditures analysis. If
2 you recall the summary sheet that we did, it showed that
3 Mr. and Mrs. Jinwright were consistently spending far more
4 amounts of money than they put on their tax returns. It's
5 not even just a matter of common sense. It's just one of
6 those physical facts of life. You can't spend more, folks,
7 than you've got.

8 They were putting on their tax returns the amounts
9 reflected on that chart but they were spending the amounts
10 reflected on that chart as well. That told them that their
11 tax returns were false. It would be one thing, ladies and
12 gentlemen, if Mr. and Mrs. Jinwright were living
13 hand-to-mouth, if they were just struggling to put food on
14 the table, then maybe -- and if we were talking about a
15 couple of thousand dollars in omitted income, then maybe
16 there would some rationality to the claim that, "We just
17 didn't know that all this income didn't get reported. We
18 just assumed our return preparer was taking care of all
19 this."

20 Folks, they weren't living hand-to-mouth. They
21 were living high on the hog. They were buying luxury cars.
22 They were living in the fast lane. They were living in the
23 big houses. In fact, they have two big houses on Lake
24 Norman, as hard as that was to get that out of Mr. Jinwright
25 on the first night of his testimony. Two houses on Lake

1 Norman.

2 They knew you can't live like that on the income
3 that they were reporting. And that's why we introduced that
4 evidence, folks. That evidence wasn't introduced to
5 embarrass Mr. and Mrs. Jinwright. The government has no
6 concern at all about how much money they make or how they
7 live their lives. The United States has a right, however,
8 that they pay their taxes; and when you're living like this
9 and looking at their tax returns, they knew those tax
10 returns were false.

11 Do you remember we also introduced their deposit
12 analysis that showed that they were depositing more than \$7
13 million into their bank accounts. So they have firsthand
14 knowledge of what's going into that bank account, and yet
15 they reported around \$3 million, I think it was, over that
16 period of time.

17 Jim Walsh, I think it was, a retired FBI agent,
18 came in here and what he told you is, "Well, I've looked at
19 these real hard, Mr. Brown, and I have found that you guys
20 didn't completely do all your numbers right. There's about
21 \$650,000 that Agent Walsh would say were transfers.

22 But did you hear Agent Walsh? Agent Walsh said he
23 realized that a deposit analysis can show you or at least
24 provide an inference of unreported income. Similarly, an
25 expenditures analysis; if you're spending more than you got,

1 spending more than you report, that puts you on notice
2 you're -- if you deposited more in your account than you
3 reported on your tax return, that's evidence of unreported
4 income.

5 What Agent Walsh candidly said was that at the end
6 of day, based on my careful analysis of your deposit
7 analysis, Mr. Brown, the best I can do is reduce it by
8 \$650,000. If you remember -- I won't bother to show you --
9 it still left us with \$3 million more in deposits than what
10 the defendants were putting on their tax returns. That's
11 evidence they knew their tax returns were false.

12 Let me tell you very quickly about the direct
13 evidence of willfulness in this case. Again, Judge Whitney
14 has already told you circumstantial proof is sufficient.
15 But sometimes, sometimes you wind up with a case where the
16 evidence is direct and forceful.

17 Donald Kellerman way back in 2001 told Mr. and
18 Mrs. Jinwright in that November of 2001 letter that they had
19 income which they were not reporting on their tax returns.
20 Do you remember Mr. Kellerman, one of the very first
21 witnesses we introduced in this trial? He was only a
22 bookkeeper but he was smart enough and experienced enough to
23 know that Mr. and Mrs. Jinwright were receiving income which
24 they were not putting on their tax returns.

25 Now, he didn't call up the IRS and he didn't call

1 the U. S. Attorney's Office and say, "These folks aren't
2 reporting all of their income." He told them, "Put this
3 stuff on a 1099 and get it on your tax returns. It should
4 be on your W-2; but if you don' t get it on your W-2, if you
5 don't run it through payroll, at least get it on a 1099 and
6 get it on your tax return because this is all income." He
7 told them payment of their taxes was income; the payments of
8 their daughter's tuition was income; the payments of their
9 salaries was income; the payments on the leases of the
10 Mercedes was income; the payments of their car allowance was
11 income; the payments for their vacations were income.
12 Everything he identified he told them was income.

13 Which I guess is the explanation for why poor
14 Mr. Kellerman got beat up so badly when he came in here for
15 not being a CPA or an accountant, because he told them way
16 back in November of 2001, before the first year charged in
17 the indictment, that they had unreported income. He put
18 them on notice way back then, and so he took a -- he took a
19 pretty bad beating in this courtroom, folks.

20 Jacqueline Joyner-Jones came in here and testified
21 to you. Remember her? She was of the loyal servant who was
22 so willing and so adoring of them that she was willing to
23 forge her name to check after check after check for years.
24 She did it, she said, with a good conscience. Not because
25 she had any authority to do it from the Board of Directors.

1 Not because of she had any authorization from the membership
2 of the Greater Salem Church Women of Faith ministry. Not
3 because anybody at the bank told her it was okay to put her
4 name on those checks without an appropriate signature card
5 on file. She forged those checks, she told you, because
6 Mr. and Mrs. Jinwright asked her to. They came to her and
7 they said, Cut me a check for whatever. She never thought
8 any more about it. It was their church; they were in
9 charge; and if they told her to do it, she was going to do
10 it.

11 Jacqueline Joyner told you that she routinely sent
12 out those letters with the Forms W-9 to both Mr. and Mrs.
13 Jinwright putting them both on notice that they were
14 receiving unreported income.

15 Jacqueline Joyner, who even testified that she
16 wrote that check for taxes for Mr. Jinwright even though
17 there was no money in the general operating account of the
18 church. Mr. Jinwright came to her and said, "Well, there's
19 money in this pot. The church is insolvent but I want my
20 taxes paid, so go ahead and write me the check out of this
21 account." That's what she told you. That's what she did.
22 There is the check.

23 What did Mr. Jinwright say about her? Jacqueline
24 Joyner, good and faithful servant, was a liar.

25 Darlene Perkins. Let me remind you of some of

1 these witnesses.

2 Darlene Perkins. She is the lady that came in
3 here, honorably served her country in the U.S. Air Force.
4 She gets a ten percent disability payment and she got beat
5 up about that. She took care of the dying father of her
6 ex-husband. She took in her elderly mother and apparently
7 got to share the Social Security benefits with her. She has
8 a disabled child, and so she apparently gets another
9 government benefit. Maybe those are the reasons that
10 Darlene Perkins got so beat up here.

11 She was a member of the Greater Salem Church. She
12 got appointed to be the finance administrator. She took
13 over that job in July of 2003 and she quickly identified
14 that Mr. and Mrs. Jinwright were receiving substantial
15 amounts of income which they weren't reporting. She told
16 them both, "This should go on a W-2."

17 Mrs. Jinwright said, "Well, we don't do it that
18 way."

19 She said, "Well, then you need a 1099."

20 "No, we don't want a 1099 either."

21 She told them repeatedly, "This is income." She
22 might have stayed there longer. That was their
23 responsibility, she said. It should have been on a W-2,
24 they should have gotten a 1099; but ultimately it was
25 Mr. and Mrs. Jinwright's responsibility to report their own

1 income.

2 That didn't trouble Darlene Perkins whether they
3 did or didn't report their income, but something did.
4 Mr. and Mrs. Jinwright again sat on the budget committee
5 with Darlene and they knew the church was in financial
6 distress. They sat on the Board of Directors and Darlene
7 Perkins reported to them that the church was in financial
8 distress.

9 They made Darlene Perkins when they -- they made
10 Darlene Perkins at least go to the December 2003
11 congregational meeting with a false and fraudulent financial
12 report which deceived the congregants of that church. That
13 cut Darlene Perkins to her soul. The next month, she left.

14 They accused her of stealing from the church.
15 Remember what they accused of her stealing? The true
16 financial report. Would that she could have produced that
17 for you. She said she looked for it; because what was
18 produced to the congregation was false, and the one that she
19 produced was true and correct and showed the church was in
20 financial disarray.

21 But the corroborating evidence for her testimony
22 were all the financial records that we brought in here, all
23 of the Board of Directors meetings that say we've got a
24 financial crisis on our hands. Yet Darlene Perkins said
25 when they got to the congregation in assembly, she sat there

1 and watched while the congregation, her fellow parishioners,
2 were lied to. She couldn't take that anymore and she left.

3 She was followed by Nelson Adesegha, whose only
4 sin was, best I can tell, was he has an accent and comes
5 from Nigeria. He surely cannot be faulted for doing the
6 best he could with unwilling bosses.

7 He told them early on, "You all are going to have
8 your cut your expenses." Remember what happened to him?
9 Within two weeks he went to the first Board of Directors
10 meeting and said, "This church is bankrupt."

11 He got yelled at by Mr. Jinwright. "You don't
12 tell the Board of Directors those kinds of things. You tell
13 me and I'll decide whether the board even needs to know
14 about it." That rubber-stamped board.

15 Well, Mr. Adesegha did his best to try to get
16 financial control of that church. It couldn't be done
17 because when he recommended that Mr. and Mrs. Jinwright take
18 a salary cut, they laughed at him and said he was crazy. He
19 said Mrs. Jinwright said, "There's no way I'm going to work
20 for less than the amount of money that I make."

21 They let the church go into financial ruin while
22 they continued to take money out of it. And then what made
23 it worse, Mr. Adesegha said, "And you all need to report
24 this. You need to get a 1099 for it. Really, it needs to
25 go on the W-2."

1 Mrs. Jinwright said, "No, we're not sending it
2 over to payroll." So he said, "Well, I'm going to issue
3 1099s; and by the way, I'm going to issue a 1099 for your
4 mother, Addie Porter." Mr. Adesegha said there was friction
5 as a result of that.

6 Mr. Howze told you he saw the friction as a result
7 of that. Well, that friction evolved until the following
8 year when Mr. Adesegha finally put his foot down and said,
9 "I don't care what you say, I'm issuing 1099s at the end of
10 this year to you two and I'm issuing one to Addie Porter."

11 He got fired. He didn't get to issue any 1099s at
12 all.

13 Remember Regina Chiles? Regina Chiles was a meek
14 and mild lady with 35 years of experience with Wachovia who
15 came in here and said that she sat on the Board of Directors
16 for the better part of four years, and she knew her church
17 was in financial disarray. And yet, year after year, she
18 went to the meetings at the end of the year and she allowed
19 Mr. and Mrs. Jinwright to tell the congregation that the
20 church was in the black.

21 She did it year after year until the year when
22 things got so bad the Sheriff's Department came out to seize
23 the vans. That's when the Board of Directors met
24 independent of Mr. and Mrs. Jinwright. Because as Ms.
25 Chiles said, if they were there, nobody had the guts to say

1 anything to them. They were a rubber stamp. They weren't
2 allowed to speak.

3 Or, as Mr. Jinwright said, they were allowed to
4 discuss and recommend. They could not decide. This
5 decision-making body of the Greater Salem Church, according
6 to Mr. Jinwright and what he told the congregation, was only
7 allowed to discuss. They couldn't decide.

8 So when it became clear to Ms. Chiles nothing was
9 going to change, the church was going to go further in the
10 hole and the congregation was going to be lied to year after
11 year after year, she said, her words were, "I was in
12 spiritual warfare. I loved my pastors, I respected them
13 spiritually, but I can no longer stay in that church and
14 allow this to continue." And so she just left.

15 She didn't resign. She didn't tell anybody what
16 she was doing. She just walked out of the door of the
17 church she had been part of for years and never went back.

18 Larry Gandy, the same thing. When it became clear
19 to him that they wouldn't change, that they were going to
20 run that church into the ground for their own personal
21 inurement, and they were going to continue to lie to their
22 congregation year after year after year to conceal what they
23 were doing, when they were continuing to cheat the
24 government. Despite the fact that, as Mr. Gandy said, they
25 had met with Robert Howze; they had been told, just like

1 Mr. Kellerman told them, they were told by Robert Howze,
2 "You've got all this income. These love offerings, you're
3 calling them, that's income. These anniversary gifts that
4 you're calling them, that's income. This is all unreported
5 income." Mr. Howze is telling them that in '04 and '05.
6 Three years after Mr. Kellerman's told them, a year after
7 Darlene Perkins has told them.

8 When it became clear to Mr. Gandy they were not
9 going to change, that they were going to continue to deceive
10 the congregation and cheat on their taxes, he left too.

11 People left because they knew too much and their
12 consciences finally forced them to do the right thing.

13 My time has just about expired here, folks. I
14 want to leave you with two things before my colleagues come
15 up to speak. I want to leave you with Robert Howze.

16 Robert Howze went out there and he did an audit
17 for two straight years. All the very same things that
18 Donald Kellerman told them in 2001, Robert Howze -- who was
19 a CPA, who is a minister, and who is very knowledgeable
20 about the obligations of churches and ministers to report
21 their income -- he went out there as a ministry to help
22 Mr. and Mrs. Jinwright. He went out there a second time to
23 help them. He didn't go back.

24 You are the final arbiters of credibility. But I
25 want you to remember the pain and the agony on Mr. Howze's

1 face. You don't get to experience this very often in a tax
2 case, folks, I can tell you that. But when I asked
3 Mr. Howze as the final question, "Mr. Howze, why didn't you
4 go back?"

5 "I wasn't effective."

6 "Why didn't you go back, Mr. Howze?"

7 There was silence in the courtroom which was
8 deafening as he looked at me, and the pain in his face was,
9 "Oh, Mr. Brown, I don't want to answer you that question."
10 He tried not to answer it. He tried to find a way to answer
11 it that wouldn't be completely untruthful, and he couldn't
12 even do that.

13 He drank the water. He looked at you. He looked
14 up and finally just said, "They didn't have the will to get
15 it right."

16 What he meant, folks, is they were going to
17 continue doing exactly what they had been doing from '01 to
18 '03 when he got there. He was right. What they continued
19 to do all the way to 2007, shortly before they were indicted
20 in this case.

21 They didn't want to get it right.

22 Yet what did Mr. Jinwright say when he took the
23 witness stand? He looked at Robert Howze. He's a liar.
24 Mr. Jinwright in the course of his testimony called the
25 three gentlemen that came here from Hendrick, Mr. Johnson,

1 Mr. Howell, Mr. Gallagher, liars. He called Jacqueline
2 Joyner, the woman who forged checks for them, a liar.
3 Darlene Perkins, a liar. Larry Gandy, a liar.

4 Mr. Lancaster. Mr. Lancaster said, "I had no
5 conversations with him at all about taxes. None at all. I
6 didn't talk to him about truing it up. I didn't talk to him
7 at all about quarterly payments." Mr. Lancaster is a liar.
8 Mr. Mauney is a liar.

9 But the last straw, folks, Robert Howze is a liar.

10 And so I submit to you this case is now easy. You
11 don't have to spend hours pursing the evidence, looking at
12 the documents. If you believe the testimony of Anthony
13 Jinwright that every one of those folks came into this
14 courtroom, looked you in the eye, put their hand on the
15 Bible and lied, then I submit to you, ladies and gentlemen,
16 you should acquit Mr. and Mrs. Jinwright and let's all go
17 home.

18 But if you believe that those people didn't lie,
19 that they came in here and they told you the truth,
20 sometimes as painful as it was, and Mr. Jinwright lied to
21 you, that's reason enough to convict.

22 THE COURT: All right. Ladies and gentlemen,
23 we're going to take lunch, but it's going to be a short
24 lunch, 30 minutes; and you will find lunch back in the jury
25 room for you, so you don't have the leave the jury room.

1 Obviously, all 13 of you will be together for the next 30
2 minutes; you still can't talk about the case.

3 So you've got oral argument and some final
4 instructions; and until all that's done, then you can start
5 discussing the case. Enjoy your lunch we'll see you at
6 22 -- maybe it's 20 after, 28 minutes. Let's have lunch.

7 (Jury leaves courtroom at 12:50 p.m.)

8 THE COURT: Mr. Brown, you have 23 minutes
9 remaining.

10 MR. BROWN: Thank you, sir.

11 THE COURT: Who's starting?

12 MR. HINSON: Mr. Tate.

13 THE COURT: You all divide it up however you want,
14 and I'll just tell you when you are nearing the two-hour
15 limit. Is that all right?

16 MR. HINSON: Yes, sir.

17 THE COURT: Okay. Then I will see you at 1:20.

18 (Lunch recess taken.)

19 THE COURT: Anything before we bring the jurors
20 in?

21 MR. BROWN: No, Your Honor.

22 THE COURT: Are they ready?

23 MR. TATE: We're missing Mr. Jinwright.

24 THE COURT: We'll just sit down then.

25 (Defendants now present. Jury enters courtroom at

1 1:24 p.m.)

2 THE COURT: Mr. Tate.

3 MR. TATE: May it please the Court? Counsel,
4 ladies and gentlemen of the jury.

5 It's my honor and privilege to represent Pastor
6 Harriet Jinwright, a woman that was presumed not guilty and
7 is fact not guilty.

8 Just about four weeks ago, Ms. Parrott, when she
9 gave her opening presentation, she was right when she said
10 that Pastor Harriet was here because she's the wife of the
11 Bishop. She was right when she said that you would have to
12 consider the evidence against them separately. So what that
13 means is, the importance of that is now is that they can't
14 convicted by just saying "they" and "them."

15 You heard that a lot of times and I tried to stop
16 them every time they did it. You can't convict they and
17 them, and saying they and them is not evidence. I don't
18 care how many times you say "income," that's not evidence.
19 You've got to prove that.

20 You know, we want to thank you on behalf of
21 Ms. Parrott and I, who have done the very best we could to
22 show you a true -- with the assistance of our staff who has
23 worked tirelessly to prepare this matter for trial. But the
24 most important job in here is yours.

25 I know some of you have had important positions in

1 your life, some not so important. But today you are at this
2 time the most powerful people in this courtroom. You have
3 the power, a power that you may never again see in your
4 lifetime, to stand in judgment of another human being. Like
5 the defense attorney, you are the check and balance in our
6 system of jurisprudence; and after I get done walking
7 through the evidence with you, I'm confident that you will
8 check them by finding our client not guilty.

9 If this case were a towel, a wet towel wrung out,
10 every drop would read lifestyle. Wrung out it could not
11 even spell the word "tax evasion," and wrung out ultimately
12 will have to read not guilty. Now, I'm going to prove what
13 I just said.

14 Have they proven tax evasion? As an attorney and
15 former investigator, I haven't seen a tax evasion case where
16 nothing was hidden. Nothing was hidden. Everything is wide
17 open here. There's no double set of books. You've even
18 seen in the Judge's instructions they talk about the type of
19 things you look for in tax evasion. I ask you to look at
20 that during your deliberations and you won't find it here.

21 There were no double books. No hidden accounts.
22 No accounts in nominee's names. But most important is the
23 evidence that you saw which was the paper trail.

24 People evading taxes, folks, don't leave a paper
25 trail. Tax evaders don't do that. They don't write "Taxes"

1 on the check. We haven't heard about sacks of cash or
2 anything hidden here.

3 It defies logic and common sense. You don't
4 normally and willfully seek to evade taxes by leaving a
5 paper trail that's easily gathered up as they have done
6 here. But as you watched this case hopefully you saw we
7 didn't call a lot of witnesses; we didn't have to. We used
8 their own evidence to disprove their case with every witness
9 that they put on the stand.

10 They only called -- now this is a tax case. They
11 only called three witnesses from the IRS; and all of the
12 witnesses that they called from the IRS didn't do anything.
13 They didn't investigate the case. They couldn't tell you
14 anything about the case at all. Let's talk about it.

15 Well, they focused on the Greater Salem records
16 and the records of contributions but they didn't talk about
17 the fact that, in their evidence, in the paper trail that
18 was left, showed donations to various churches that are also
19 contributions. They didn't want to talk about the records
20 and ledgers held by Mr. -- What is it, Kellerman? -- back in
21 2001.

22 Well, what about all the other checks? They
23 didn't talk about that because it proves the truth.

24 Now, who did they call from the IRS? Mr. DePowell
25 was the first one. You recall Mr. DePowell; he was a

1 gentleman early on in the trial. An older gentleman who
2 came up here and said that he had worked in the records
3 center I believe for some 20 years. He was not an IRS
4 agent. All he really did was gather up records and bring
5 them in here from the IRS.

6 What was interesting about what he said was is
7 that when you pressed him for information, he really didn't
8 know anything.

9 That document that Mr. Brown showed you was one of
10 the first impeached documents in this case. It had a
11 purported salary of the Bishop and Pastor Harriet on there;
12 but when I ask Mr. DePowell, who knew so much about the
13 records on direct, "What year does this document relate to?"
14 He couldn't tell you. That tells you a truth. He didn't
15 know anything more about this case than we did.

16 Now, the 1040X, you would come to learn about --
17 more about that document as the trial progressed. But you
18 remember it was Mr. DePowell that introduced that 1040X or
19 that amended return, that fraudulent amended return.

20 I think I heard Mr. Brown say in his closing
21 argument that it was signed by them. Well, look at that and
22 see if it was signed by them. Pastor Harriet Jinwright
23 didn't sign that document, and not a single witness -- I'm
24 talking about the 501(c)(3) application -- not a single
25 witness that entered this courtroom said she signed that

1 document. Not one. But yet Mr. Brown -- that shows you how
2 easy it is -- said they signed it.

3 Well, we learned a lot about how that document got
4 submitted. And it still isn't clear. We know that it was
5 submitted by Robert Howze. I'm going to come back to that
6 in a little bit.

7 Now, that 1040X they made such a big deal about,
8 we attacked it initially on the signatures. But then if you
9 recall, Mr. Hinson introduced the record from the Judge here
10 that said that people who were involved with Tiari-El were
11 victims. She was running a fraud scheme. And our
12 investigator came in here -- just to show you how easy it
13 was -- to show you that the P. O. Box only there had no
14 connection whatsoever to the Jinwrights. It went squarely
15 to the Tiari-El.

16 Surely, the government knew about that. But in
17 desperation they put that document in anyway. It tells you
18 a truth; what happened.

19 Do you remember Agent West that came in? The
20 tall, good-looking guy that came in and testified for the
21 IRS? Mr. West, according to his testimony, Agent West, was
22 brought in just some three weeks before this trial. Why?
23 Why was he brought in at the last minute? If you had been
24 investigating all these things for all these years, why is
25 it that he's coming in three weeks before the trial? Well,

1 it shows what happened.

2 His haste to get it together resulted in fuzzy
3 math and really uninvestigated conclusions. I spent some
4 time with him asking, "Well, how do you determine whether
5 this is a personal expenditure or a business expenditure?"
6 He couldn't. Because all he did was look at records that
7 were compiled by somebody else.

8 Then we had Ms. Polk. And I'm going to have to
9 correct Mr. Brown. Ms. Polk's findings were indeed
10 challenged and challenged vigorously. You remember we had
11 to bring her back the next day to talk about it. So you can
12 listen to that, but remember what you saw on the witness
13 stand.

14 I asked her, I said, "Ma'am, the results" --
15 remember how she talked about she plugged some figures into
16 a computer and then the computer did all the -- all the work
17 and arrived at these astronomical figures that they now they
18 owe in taxes?

19 Well, we know all of the computers are not
20 infallible and neither is Ms. Polk. Because I clearly
21 showed her some checks that you heard -- she said she was
22 here -- by the way, you remember she testified that she was
23 basing this on what she heard in the courtroom. But every
24 time I asked her, "Well, who said that?"

25 "Well, my notes are at home."

1 More importantly, we showed her a series of
2 checks, one written by I believe it's Bishop McCullough.
3 That he cleared testified that if I issued a 1099, which he
4 did, it was in error because that was a gift. His testimony
5 was unequivocal: That church, Friendship Baptist, is not
6 her employer. So I don't understand how they can say that
7 her testimony was not challenged.

8 But most importantly about Ms. Polk was that I
9 asked her, Ma'am, the results that you come up with are only
10 as good as the data you put in. And if the data that you
11 put it is indeed wrong, the result is wrong. You can trust
12 that fuzzy math if you want to but you'd be trusting it with
13 somebody's life.

14 We concede they've changed their numbers a couple
15 times during the course of this trial. Sometimes after
16 cross-examination; most of the time, I would say. But yet
17 they want to use those same kind of mathematical errors and
18 say somebody knowingly and willfully committed a criminal
19 violation.

20 Well, were their mistakes knowing and willful?
21 Were they criminal? I don't think so. But the same
22 standard should be applied to a defendant that's on trial.

23 After the end of the day, and I'll show it to you
24 later when I brought her back, I went through a series of
25 ledgers that she prepared. He didn't show them in his

1 closing, I'm going to show them to you later, where it was
2 determined that Pastor Harriet, for several of those years,
3 claimed exactly what was filed on the 1099. 1099s that were
4 provided to the IRS were filed on her Schedule C.

5 I went through them and she had to say yes because
6 it was true. It told the truth. There was some mistakes
7 made; but remember, she was a W-2 employee so her salary is
8 on the W-2. And you have to consider separately -- if you
9 believe that perhaps the returns were filed in error or
10 filed intentionally for a crime, you have to consider her
11 separately.

12 And I suggest to you the fact that she was a W-2
13 employee, her income was reported, several years when she
14 received 1099s they were reported properly on her Schedule
15 C, that suggests a person who did not have the prerequisite
16 mental status to commit a criminal tax evasion.

17 Mr. Brown made references to Agent Nixon but we
18 never heard from her. Why? He talked about her in closing,
19 what all she did. Well, you didn't hear nothing about what
20 she did. Why? You've got to answer that perplexing
21 question before you find anybody guilty in this case.

22 Now, I'm going to come back to Ms. Polk.

23 I would say that when we began our defense case we
24 called Special Agent Walsh, retired, to the stand, and I
25 would suggest that he perhaps was the most credible witness

1 to enter this courtroom.

2 Mr. Walsh had worked with Mr. Brown he -- in the
3 FBI, has analyzed financial documents. We reached out to
4 him and said, "Can you take a look at this?" And after all
5 the fuzzy math and writing on the Elmo and crossing things
6 out, at the end of the day their figures, introduced through
7 Rodg West, relied on by Ms. Polk, turned out to be in error
8 by some \$652,000. That's more than the taxes they say they
9 owe. That's all right. Now, back to Ms. Polk.

10 If those figures were wrong, if the figures from
11 Darlene Perkins were not right -- she had to come back and
12 correct her several times. Remember that? She had to come
13 back the next day. If they are wrong, how can the results
14 be right?

15 If you can tell a tree by the fruit it bears, then
16 if the fruit is rotten then the tree is rotten at the core.
17 I'm saying you cannot trust those figures, period. I don't
18 know what the figures are at this point other than they
19 can't be trusted.

20 They talked about these charts and summaries. And
21 the Court has instructed you that they are only as good as
22 what you recall. If you don't agree with them or can't
23 reconcile them, you can freely disregard them and that's
24 what I'm asking you to do. Based on everything that you've
25 seen in this courtroom, what we do know is that last chart

1 he showed saying how much they deposited? We know they had
2 those numbers scrambled up. And then comparing them to tax
3 returns, that was comparing apples to oranges, folks, if you
4 haven't figured that out yet.

5 In a tax return you're not reporting what you get
6 in. You're reporting your taxable income. If it's nothing,
7 it's nothing. If the accountant says the taxable income is
8 zero, it is zero.

9 The most glaring defect in that whole argument is
10 the fact that they don't discount the housing allowance,
11 which you should know by now is a tax -- nontaxable benefit
12 for the clergy. That's the biggest hole in their argument.

13 Now, what else did Mr. Walsh say? And I'm going
14 to have to correct Mr. Brown again, because maybe we're in
15 two different courtrooms, but I recall the last questions I
16 asked to retired Special Agent Walsh, "Is our inferences
17 evidence?" His answer was unequivocal, "No."

18 I said, "Can you tell whether a transaction is a
19 taxable income based on looking at a check or a
20 transaction?" His answer was an unequivocal, "No."

21 So all they have done here is given you a bunch of
22 fuzzy figures and math and point the finger and say "them"
23 and "they" and ask you to infer someone's guilty, but they
24 haven't proven it. We're going to talk about what they have
25 proven in a minute.

1 I submit there's no evidence to the contrary that
2 Pastor Harriett didn't sign those returns to the best of her
3 knowledge and belief. See, they keep talking about
4 certification; I want you to not pay so much attention to
5 what they are saying; pay attention to what they are not
6 saying.

7 Why did he skip that word, "best of her knowledge
8 and belief"? He didn't talk about that. He talked about
9 under penalties of perjury. It doesn't say that. Look at
10 them if you want to. It says "best of their knowledge and
11 belief." And you have no evidence to the contrary. Since
12 she is presumed innocent under the law, they failed to prove
13 that, you must acquit her.

14 Another thing that was omitted if you recall was
15 when Agent West was testifying, I asked him about one of
16 those summaries. That summary has since disappeared, but
17 there was a summary that he had and it showed tax paid zero.
18 I said, "Agent West, if you're summarizing the evidence, why
19 did you leave out a column with the taxable income?"

20 It's not so much what they say, it's what they
21 don't say. It tells a truth.

22 Now, I haven't heard a scintilla of evidence in
23 this courtroom of a conspiracy to commit a crime against the
24 United States to defraud the Internal Revenue Service.
25 None. Where is the criminal agreement?

1 Heard none against Bishop Anthony Jinwright. He's
2 on trial. He's my client's co-defendant. Because they're
3 married, you've got a jury instruction just because they are
4 related, it doesn't mean they conspired. Most of us don't
5 know what's going on day to day with our spouses anyway.
6 Talk to people you're working with more, you spend more time
7 with the people you work with.

8 So show me instead of tell me. That's what you
9 ought to be asking. They can't talk somebody into a guilt.
10 It requires proof. And they haven't proven anything. They
11 are putting in a lot of documents that do not create any
12 inference of guilt and that you can't tell nothing about the
13 transaction because it's all fact-based.

14 You haven't looked at anything but a check. I
15 believe the evidence is sufficient that they relied on Terry
16 Lancaster, who did their taxes for a number of years.

17 Terry Lancaster is not, you know, somebody sitting
18 over at Rapid Tax. This is a guy whose practice specializes
19 in the church and the ministry. You would think that he
20 would be able to spot issues and advise and counsel his
21 clients; and he has, in fact, consulted with them about
22 their taxes.

23 He talked to them about the housing allowance, I
24 believe it was at one point, the taxability of that, and
25 that's what he did. But at the end of the day, the very

1 last question I posed to Terry Lancaster was, "Sir, do you
2 see your signature on these tax returns? Do you believe
3 those returns you signed were accurate?" And his answer
4 was, "Yes." Tells you the truth. And that answer that was
5 left unchallenged by the government.

6 Now, let me go back to this 501(c)(3) application.
7 First of all, I think I said it earlier; if I didn't, I'm
8 going to say it again: That Pastor Harriet had nothing to
9 do with that application. There's been no evidence that she
10 did and she did not sign it. But more importantly, it is
11 not something that you can consider as evidence. You're
12 going to hear instruction or you should have heard it
13 already that says the defendants are not on trial for
14 anything not charged in the indictment. It's not in there.

15 Now, let me -- we'll see if I'm telling the truth.
16 Before I do that, they also made a big deal with this
17 so-called taxability of Addie Porter, the woman -- Pastor
18 Harriet's elderly mother who worked as a seasonal employee
19 who in part-time was the testimony of Varnell Gray at a day
20 camp affiliated with the church.

21 She was not an employee of the church. They
22 haven't shown where she should have received a W-2 from the
23 church. She's not an employee. But most importantly, even
24 if you wanted to consider that, you can't because it's not
25 in the indictment.

1 You're going to have a copy of this -- you're
2 going to have a copy of this in the jury room. And when you
3 look at this, I want you to remember that instruction that
4 if it is not charged in the indictment you can't convict
5 them for that. This is the first page.

6 It goes through various compensation the Bishop
7 and Pastor received. It goes on to page 3. I'm not going
8 to read this to you. Then it goes into the tax payment
9 history which you heard all about. Then it goes into
10 knowledge of unreported income.

11 Under knowledge, although Mr. Brown says there's
12 proof of that, he didn't charge it that way in the
13 indictment. It's because his -- his -- it's because his
14 case changed; as the witnesses he put on and the evidence he
15 thought would come out started crumbling, his theory changed
16 and shifted. But it's not in the indictment. It's not
17 there.

18 They go on and talk about all the cars. I told
19 you the case was about lifestyle. They go ahead and put the
20 values of the cars. Don't talk about the -- when you lease
21 a car, you're not -- you're not buying that at that value,
22 you're leasing a portion of it. And they were at different
23 times.

24 They go on and talk about the various expenses.
25 You learned from the jury instructions that most of these,

1 if not all, are properly figured into the clergy's housing
2 allowance.

3 I don't see it. Maybe they will show you it to
4 you when they get back up. Something about the
5 victimization of GSC. We're going to talk about that too.

6 Here we go, all the way through. No mention of
7 Addie Porter. No mention of the 501(c)(3) application; it's
8 not there. If it's not there you can't consider it. You
9 can consider it but you can't convict somebody of something
10 they are not charged with.

11 Mr. Brown suggested under Count One you could
12 convict them if you concluded that they conspired to keep
13 Addie Porter from getting a W-2. You can convict them if
14 you agree that they signed the 501(c)(3) application. I
15 don't have to worry about that. It's not here.

16 This goes on to the mail fraud accounts. You can
17 look at it. Then they go on to Count One, conspiracy. You
18 can see here nothing about Addie Porter, nothing about a
19 501(c)(3). It's not there.

20 Why is he talking about it then? Because he
21 doesn't have any other evidence to talk about. Got to talk
22 about something. Got to do more than throw figures out
23 there.

24 All they really proved at the end of the day is
25 that they lived well. Apparently lived too well that

1 somebody didn't like it. Little small church on the west
2 side driving them kind of cars, living in them kind of
3 houses.

4 Last time I checked, living well wasn't a crime.
5 You see it on television. They've got Lifestyle of the Rich
6 and Famous. They got cribs. If living well was a crime,
7 the jails would be filled with people and pastors. It's
8 just not a crime.

9 The evidence is that they were loved by their
10 congregation; and when they heard the word of God coming out
11 of their mouth, they felt that it was nothing too good for
12 them. And that's their right.

13 You haven't heard one person come in here from
14 that church and say, "I'm a victim." I asked Mother -- what
15 is it? Mother Anderson, is it? One of the ladies been
16 there some 38 years, I said, "Ma'am, do you need some third
17 party to come in and intervene and protect you all from the
18 Jinwrights?" She said, "No." At the end of the day she was
19 there when they were hired. She said, "We hired them, we
20 can fire them." That's their right.

21 People who don't like the church, they left. From
22 my vantage point it was only a few.

23 Now, what was the evidence that you heard in this
24 case when it's wrung out?

25 They spent three weeks talking about what kind of

1 cars they drove, what kind of house they lived in, how much
2 money they were getting from the church. Well, then, you
3 mean to tell me that they who built the church, they who
4 bled, sweat and fought to maintain the church, they who gave
5 it art and culture and seasoned it and they are not supposed
6 to get nothing out of it lest it be a crime? I don't see
7 the crime.

8 Somewhere along the line the church went from
9 saving souls in a barn to become big business. Preaching
10 Jesus has become big business. They fly in jet planes
11 today. In their own jet planes. And then these preachers
12 on the west side are shocked. But does it make it a crime?
13 When the church got bigger, the practices of the old days
14 didn't go along with it.

15 So the question you have to ask is: Have they
16 been walking amongst us as imposters for some 30 years
17 preaching Jesus to bilk people in the name of the Lord?
18 Have they been doing that?

19 If so, I'm afraid that -- and I can't look into
20 their eyes and neither can you. And I was raised that when
21 a man or woman says they are of God they were called by God,
22 you don't question that because you can't tell. If they are
23 imposters, even if you believe that, I'm afraid that upon
24 His return, they are going to be some of those saying,
25 "Lord, Lord," he's going to say, "Depart from me. Your work

1 is an inequity because I know you not."

2 Scripture says that when He comes back He don't
3 come back with an olive branch. The Book says He comes back
4 with a sword in His hand and it was dripping with blood.
5 Isaiah the prophet saw him treading the wine press alone,
6 and if you've ever seen a wine press, it's a big huge vat
7 that in the old days you wash your legs and feet and get in
8 and tread the grapes down unless your garments were soaked
9 with the juice of the grapes.

10 He saw Him treading the wine press alone.
11 Treading down the wicked and false prophets under His foot.
12 I wouldn't want to be in that shape because He intends to
13 destroy that kind of person.

14 That's a judgment by a Higher Being. I can't make
15 that call and neither can you. You shouldn't try to assess
16 that in determining whether they committed the crimes they
17 are charged with.

18 I want to show you an instruction that you should
19 follow -- in fact, you're required to follow. And I want to
20 highlight some things on here; because everything that this
21 instruction says you can't do in his closing arguments
22 Mr. Brown said you could do. So look at it. Can everybody
23 see that? It's an instruction. If I have to hold it up, I
24 can. I promise I didn't break anything. (Laughter)

25 Let me do this, let me hold it here.

1 I want you to follow me here. It says -- the
2 Judge instructed during the trial evidence was introduced
3 concerning the mortgage application, tax returns filed by
4 the defendants in the years outside the dates charged in the
5 indictment. Additionally, you have heard and received
6 evidence regarding the internal business governance of
7 Greater Salem Church and/or Salem Baptist Church, including
8 the manner and presentation of its annual budgets --
9 remember that now -- to its congregation. Its preparation
10 of budgets, its record makings and bookkeeping, the manner
11 in which it collected offerings, how it expends its funds as
12 well as evidence regarding how the church determines the
13 salaries of the -- of the -- of the pastors.

14 Then it goes on to say that: "I hereby instruct
15 you that defendants are not on trial with respect to that
16 identified evidence introduced either through documents
17 and/or testimony, or for any other act -- " I'm talking
18 about the Addie Porter, the 501(c)(3) application -- "any
19 other act, conduct or offenses not alleged," where? "In the
20 indictment." I didn't say it. He said it.

21 "You may consider this evidence only for the
22 limited purposes: Whether the defendants had the state of
23 mind or intent necessary to commit the crimes charged."

24 I want haven't heard any nexus or correlation
25 between any of that stuff.

1 Whether the defendants had a motive of opportunity
2 to commit a crime. Charged where? In the indictment.

3 Whether the defendants acted according to a plan
4 or preparation for the commission of crimes. The word is
5 missing, but the word "crimes" should follow that.

6 And whether the defendants committed the acts he
7 or she is on trial for by accident or mistake.

8 Then he goes on to tell you: Remember, this is
9 the only purpose for the identified evidence. Even if you
10 find the defendants have committed the acts identified by
11 the evidence, this is not to be considered as evidence of
12 character to support an inference that the defendants
13 committed the acts charged in this case.

14 It's the law. It's not argument. It's the law.
15 I'm asking you to follow it.

16 Now, let me talk with you about some of the
17 witnesses that testified in this trial. And if I offended
18 anyone, I apologize. But I'm dealing with the life of a
19 human being. And if a person gets on the stand and
20 testifies and I don't believe they are testifying
21 truthfully, it's my job to bring out the truth and that's
22 what I tried to do.

23 Let's start talking about I think it was
24 Kellerman, Mr. Kellerman from Chitwood & Chitwood.

25 Now, one, as far as I can recall, Mr. Kellerman

1 did not conduct what's called an audit. Remember we
2 asked -- I believe it was Ms. Parrott asked Mr. Howze, "Can
3 a bookkeeper do an audit?" He said, "No."

4 Now, what we do know about that time frame of 2001
5 Mr. Brown wants to relate it to some compliance with
6 501(c)(3). Well, there wasn't even a 501(c)(3) yet, so what
7 were they complying with? Mr. Chitwood or Mr. Kellerman at
8 the end of the day had to admit, just like the others, that
9 if they don't find anything wrong, there's nothing to sell
10 them. They are always going to find something wrong;
11 because if there's nothing wrong, there's no products to
12 sell the church. And, indeed, he sold them some products.

13 You have to look at their motives and the
14 purpose -- now, they're flashing these different documents
15 up, portions of certain documents. But if you look at the
16 501(c)(3) application, then go over what Mr. Chitwood &
17 Chitwood wrote, most importantly, folks, it had absolutely
18 nothing to do with their personal taxes. Couldn't put them
19 on notice if it wanted to. And even if he tried, I'm very
20 sorry, but Mr. Kellerman just wasn't -- you know, he didn't
21 have the credentials. He might have the knowledge. I'm not
22 going to denigrate that. But the bottom line, if you're
23 going around selling a product and you're telling the people
24 they ought to rely on you, you ought to be credentialed.

25 Mr. Howze, who they put some much stock in, agreed

1 with us.

2 Then we had Mrs. Perkins who only lasted a few
3 months. What we do know about her is that it appears she
4 has a hard time following the chain of command. That's
5 evidenced by the fact that she apparently hasn't stayed on
6 the job more than a year. When Mr. Hinson pressed her, she
7 always -- one time she had a heart attack but then she got
8 out and didn't go back. Another time she left for another
9 reason. And then she left the church because she didn't
10 agree with the way it was run and so she should leave. That
11 was her right.

12 But when she left, she stole the documents from
13 2003. And I say "steal" because it wasn't hers. It
14 belonged to the church. And that's why, if you have been
15 wondering, you haven't seen no records from 2003 because she
16 took them.

17 Mr. Brown, they kept putting up something, a
18 budget from 2005. We had to point that out at one point.
19 Because they can't put up 2003 because she stole it. She
20 gave it to some guy and he ran off somewhere in 2005; she
21 hadn't seen him. You know, I'm not even going to swallow
22 that garbage. What does it have to do with tax evasion
23 anyway? Nothing.

24 It's to make you dislike the defendants so that
25 you might find them guilty based on the dislike versus

1 evidence that they don't have.

2 Then we had Mr. Adesegha. Well, I'm not going to
3 spend much time on Mr. Adesegha. He's clearly a person that
4 has a subjective memory. Initially they were telling you
5 how you should rely on Mr. Adesegha.

6 Mr. Adesegha turned out to be a complete fraud and
7 con man. He sat right here on this witness stand. I said,
8 "Sir, you say you did 500 personal tax and business returns.
9 Have you ever been certified by the IRS?" And instead of
10 answering the question he started coming up with what he was
11 preparing for. Well, I said, "Hold on. We're not asking
12 you what you're preparing for. Have you taken the exam?"

13 "Yes."

14 "Did you pass it?"

15 "Yes."

16 That was a lie. I'm gonna call it what it is.
17 That was a lie.

18 It was a lie when he said he worked for -- that he
19 did 500 personal tax returns. We pressed him on that, and
20 then all of a sudden he waffled around and he, "Oh, I was
21 just volunteering for friends and family."

22 The I pressed him a little more and he said he was
23 an apprentice. Then that degree that nobody heard of, MGA.

24 See, he speaks good words. And even Mr. Mauney
25 confirmed it; he thought he was a CPA. Bishop thought he

1 was a CPA because, if you recall, we finally learned out why
2 Mr. Howze left.

3 Why did he leave? One, most important, they
4 weren't paying him no more. Mr. Howze wasn't coming in and
5 they were posturing him like he doing some benevolent acts.
6 No, he's there because he's getting paid. And when they met
7 him, he was selling his services.

8 But what came out was it was Mr. Adesegha that
9 said, "Fire Howze. Bishop, you don't need him. You got me.
10 I'm a CPA." And he did. And at the end of the day
11 Mr. Adesegha was not that. They wrapped Mr. Adesegha around
12 the case and you ought to consider that.

13 Ms. Chiles, bless her heart, she came in here.
14 And I didn't have a problem with Ms. Hiles -- I mean Ms.
15 Chiles.

16 She goes to a church. She didn't like the way it
17 was running. She left. Found her another church. But what
18 she did say was that everything they did she approved. She
19 was -- she was -- she was unwavering on that. She approved
20 it.

21 She talked about love gifts. She talked about her
22 intent and the intent of the congregation was that it was a
23 gift. There's nothing to refute that.

24 Mr. Gandy, do you recall him? He came. Mr. Gandy
25 was instrumental in the church giving that leased Mercedes

1 as a gift. He would stand up every Sunday and collect \$3.
2 Do you recall that? He testified to that. He was on the
3 budget committee; he was on the board. And at the end of
4 the day, "Mr. Gandy, did you approve the housing allowance?"

5 "Yes."

6 "Did you approve the travel allowance?"

7 "Yes."

8 "Did you approve the salary?"

9 "Yes."

10 "Was it after deliberation?"

11 "Yes."

12 Then we went to lunch and when we came back they
13 didn't have no more questions of Mr. Gandy. Why? Testimony
14 didn't go the way they thought it was going to go. Tells
15 you a truth.

16 Mr. Mauney came in. Mr. Mauney, I don't have any
17 problem with Mr. Mauney but what he did confirm is that it
18 was no "they" and "them." He said he never issued a travel
19 reimbursement for Pastor Harriet.

20 They tried to get him to confirm that she had some
21 something to do with a -- a -- a bonus or -- or -- or a gift
22 or something for the Bishop. Remember that \$50,000 document
23 or check? And then when we looked at the -- at the
24 requisition, because they had started doing requisitions by
25 then, he had to say he had never spoke to Pastor Harriet

1 either before doing it or after.

2 They kept saying "they approved it" and "them."
3 His conversations were with Pastor Joseph, if you recall.
4 He called it hearsay. And it was.

5 Mrs. Joyner, best thing I can say about Jackie
6 Joyner is that she clearly was scared to testify. And I
7 objected at one point because I thought that they were being
8 a little rough with her on the stand. She, at the end of
9 the day, confirmed that the reimbursements that she wrote --
10 or that were forged -- during that, I suggest that she just
11 agreed with anything. You look at those signatures; she
12 didn't sign all that stuff.

13 Unless she's an expert handwriting member, she
14 admitted that certain checks were presigned for expediency
15 and she couldn't remember which were which at this point.
16 She was scared to death. But what she really said is that
17 Pastor Harriet always provided receipts. In fact, I was
18 with her several times when she bought -- I know she bought
19 it. She don't need to substantiate it, she was there. The
20 church can pick anybody they want to substantiate it.
21 That's their right.

22 And we finally dispelled this notion that you
23 have -- remember how they were making a big deal about no
24 receipts? He didn't mention that in his closing because we
25 dispelled that. It don't require receipts, it's not in the

1 code. It's substantiation.

2 Somebody saying, "Well, Kevin Tate, what about --
3 what about those love gifts and honorariums that they
4 received?" Well, we're going to talk about that.

5 She didn't -- she didn't receive very many at all
6 anyway; and the year she did, for the most part she reported
7 them. Don't mean that she knew she had to report them. It
8 was a tax document, take it down to the accountant and let
9 him sort it out. And that's what they did.

10 I believe it was during the testimony of -- what
11 was the man's name? Was it a Reverend Sanders from Gaffney?
12 Remember an affable old man, a light-skinned man? He came
13 in here early on. Said he had been in the pulpit some 61
14 years. Do you recall him?

15 And he came and explained to us the history of --
16 of love offerings and gifts. He talked about how in the old
17 days he would -- he would -- they would bring him a ham or
18 bring him something else.

19 And I suspect -- we didn't ask him, we didn't want
20 to embarrass him. We suspect that Reverend Sanders if asked
21 would say he's still getting love gifts, he's getting
22 anniversary gifts and all that. We didn't want to ask him
23 that. It's part of the fabric of the church. And unless
24 the whole church community for all these years have said,
25 We're going to walk in the name of God to defraud the United

1 States Government's treasury, you would have to believe that
2 to convict him.

3 It was during the testimony of Reverend Sanders
4 that I -- I thought about my time as -- as a child when back
5 at that time with my grandmother, she don't use big words
6 like "convocation"; it was called revivals back then.
7 Revivals would be a couple days and you would be in there
8 all night.

9 And I didn't want to go. But she would make me go
10 because there was no opt-out provision. You had to go. And
11 I recall how she would -- was on the mother board with
12 making these peach pies, small fried pies and cakes that
13 they would give to the pastor that was visiting to present
14 to him and his family.

15 And then inevitably they would have a love
16 offering, and the plate would be passed, and she would take
17 a few coins she may have had out of her pocket, put it in,
18 give me something to put in when the plate would go by,
19 usually a couple nickels as I recall. And as the plate went
20 by, even in the times we didn't have anything, she'd explain
21 to me how you'd just pass your hand over the plate as you
22 pass it by where you would, everybody was looking --

23 MR. BROWN: I'm sorry, Mr. Tate. This is all very
24 interesting. I don't remember you testifying in this trial.

25 MR. TATE: My word are stinging. They hurt.

1 Because it tells the truth.

2 And people would be looking and pass your hand
3 over --

4 MR. BROWN: At this time I'm going to object,
5 Judge. I mean, since I've already offered him the
6 opportunity to withdraw his testimony.

7 THE COURT: Testify from the evidence in the
8 record.

9 MR. TATE: Now, let's see if I'm lying or telling
10 the truth about that.

11 The point I'm trying to make is this ain't just
12 started in 2000. This is engrained. This is part of the
13 fabric of the church, and Mr. Howze confirmed such. Our
14 witness, do you remember Mr. Howze? Where is he? Do we
15 have that -- well, I'm not going to pull it out. It's in
16 evidence. I believe it's Defendant's Exhibit 6.

17 Mr. Howze on his website explains the history of
18 love offerings. Explains how he has determined that they
19 can be legal. If he hadn't determined that, and it's been
20 going on since the beginning of time, and we know that the
21 tax regulations are ever-evolving, then that means there
22 must be some confusion out there.

23 And I suspect that most of the pastors, the ones
24 that did come in, a lot of the old -- the old pastors, the
25 ones from a big church, they didn't come in themselves.

1 They sent the church accountant to come in now to say how
2 they are doing everything right. They come in and use these
3 politically correct terms, like "for services rendered."
4 But what did the check say? And the pastors that did come
5 in, what did they say?

6 I remember the testimony of Reverend Malone from
7 Florida. He said that love offerings have been going on
8 forever. He said that there have been some confusion. He
9 said that when they didn't issue 1099s it was because they
10 were unaware.

11 I remember Arnetta from -- what's her last name?
12 Arnetta from AG ministries, she came in here. She said very
13 straightforward, "This has been going on forever." And I
14 asked, "So how in the world can somebody knowingly and
15 willfully attempt to evade taxes?" First of all, they don't
16 hide it. It's in checks. If they wanted to hide it and
17 evade taxes, say, "Oh, well, give me a check. Give me a
18 sack of cash." Can't trace that.

19 We know that the IRS never conducted an audit of
20 them. It went straight to the office in question. Never
21 gave them a chance to correct anything. And it's very
22 important for Pastor Harriet because one of the few 1099s --
23 first of all, when she got one, she reported it. And the
24 times that she didn't, 2001, 2003, "Hey, it was kind of
25 gray. They are calling it a love gift. It's been this way

1 for the last -- as long as I have been living."

2 How is that knowingly and intentionally? You saw
3 the instruction about mistake and accident. You know, I
4 just don't believe that they have -- have shown that.

5 Let me show you a couple documents here. Now,
6 they didn't show -- they showed you one but they didn't show
7 you these. These were prepared, if you don't recall, these
8 were prepared by Ms. Polk as well. When we called her back
9 to the stand I asked her about these. And what it shows,
10 beginning in 2002, it shows that the IRS received no 1099s
11 for her.

12 Now, she got some checks; but I highlighted the
13 ones where the testimony was from the people that they were
14 intending to be gifts. These other ones, you wouldn't issue
15 a 1099 anyway because they are under \$600. It's not proved
16 knowing and willful tax evasion.

17 2003. Again, she's got \$6,500 in 1099s reported.
18 One of them -- this is interesting because this is the one
19 Pastor McCullough testified the \$500 was really supposed to
20 be a gift but she reported it anyway right there on her
21 Schedule C. It's not knowing and willful tax evasion.

22 Now, there are some on here, and I don't want to
23 skip over those, but let me -- let me talk about that one
24 first.

25 Now, do you remember what I said about you had to

1 pay attention to who came in? Well, Brentwood Baptist
2 Church, I believe that's the Reverend Ratliff down in
3 Houston, a megachurch. And he sent his accountant. He
4 didn't even show up. And the accountant came in and said
5 the magic words.

6 But I said, "Sir, where is your 1099? You have
7 been doing this all these years like you said, where is the
8 1099?" Couldn't produce it. Why? Because it wasn't clear,
9 that's why. At least in their mind; otherwise, they would
10 have done it. You see New Beginnings \$300, they wouldn't
11 report that.

12 And the ones that were filed shows that they were
13 taking these things to the accountant. They were acting in
14 good faith, relying on the accountant to get it right, and
15 it shows that through this document.

16 2004, do you see there's a \$1,000 check and she
17 reported \$1,000. There is some smaller ones her from
18 Greater Paradise. Now I asked her to -- and Friendship.
19 And we know what Friendship was about. That one was from
20 2004. That was a gift. That's what I showed Ms. Polk.
21 They should have took it off and they didn't.

22 Same with New Beginnings. It was a gift to
23 Pastor. It wasn't for services rendered. Wasn't no
24 evidence that she spoke. It wasn't her church.

25 Then we've got Carlos Malone. We talked about

1 Reverend Malone already. We talked about his personal
2 confusion.

3 Then Macedonia, we don't know what that was for.
4 There's no testimony on that and wouldn't file a 1099
5 anyway.

6 Let me stop there at Greater Paradise. Remember
7 Elder Sean Bell was the pastor there and he didn't come
8 either. He sent his accountant. And I asked her very
9 straight forward, I said, "Ma'am, I asked you" -- because
10 you remember her? She said magic words, services rendered.
11 She said, "We always issue a 1099."

12 I said, "Ma'am, I asked you specifically to search
13 your files for a 1099," and she didn't have one. Why?
14 Because they weren't issuing them because it was a gray
15 area, it was not clear. Of course, they are going in here
16 with the IRS sitting right there and say, "We all did it
17 right."

18 Now, 2005. Union Baptist. No discussion about
19 that. That very clearly could be. I don't recall
20 Elevation, so I won't comment on that. Even if she did
21 leave that off, that could be a genuine mistake. What we do
22 know is that none were reported to the IRS and she did not
23 report any on their Schedule C.

24 2006 tax return. Remember now when you look at
25 this that she is a W-2 employee. That means that her income

1 is already reported. And as a clergy she didn't have to
2 have FICA taken out but she did. That's not a tax evader.

3 A tax evader is going to take care -- going to
4 take advantage of every tax benefit that they can, then
5 cheat. They're not going to forego some benefits in the
6 name of evasion of taxes. That I suggest is circumstantial
7 evidence that it's no intent by Pastor Harriet Jinwright to
8 evade taxes.

9 But let's look at this. They made a big deal
10 about 2006. I made a note there; I think Mr. Brown said
11 they had 197,000 in unreported income. Well, it wasn't
12 hers. She got two 9s -- two 1099s, and she turned them in
13 to the accountant and it was figured into her Schedule C.
14 That's not tax evasion.

15 THE COURT: Mr. Tate, you've used one hour.

16 MR. TATE: Okay. I'm almost finished.

17 Let's look at 2007. As Mr. Malone, again, we know
18 what. His thoughts are. But again, the 1099 that was
19 received by the IRS was filed on her Schedule C. That is
20 not tax evasion.

21 I don't want to eat up too much of Mr. Hinson's
22 time or preempt him. I think I've just about said enough.
23 But If you consider the evidence in this case as a whole,
24 you heard a lot about the way the church was ran. But
25 that's not your concern. Those folks over at Greater Salem

1 Church don't need nobody, don't need you or nobody else, to
2 come in and protect them. Those who want to leave have left
3 and those who want to stay are happy to be there. And many
4 of them are in this courtroom today. That shows you a
5 truth: These folks, these beautiful people of God, are not
6 following around no criminals. Mother Anderson was right
7 when she said that they could fire them, and they can.

8 This is the last opportunity you will have to hear
9 my voice. I will not be allowed to address you again.

10 Mr. Hinson is going to come up and present his closing
11 arguments and Mr. Brown is getting ready as I speak. But
12 when he's done, when he gets done saying things like "they"
13 and "them" -- and I ask you to pay careful attention to him.
14 And at the end of the day, when he's done talking, I ask
15 that you ask one question: Did he prove that?

16 (Counsel draws on paper.)

17 MR. BROWN: Unbelievable, Judge. That's a
18 personal attestation, Your Honor. I object.

19 THE COURT: All right. Thank you.

20 Ladies and gentlemen of the jury, we'll take a
21 ten-minute recess and we'll hear from Mr. Hinson.

22 (Jury leaves courtroom at 2:30 p.m.)

23 THE COURT: It's written argument, isn't it? I
24 mean, it might -- it might be.

25 MR. BROWN: That's beyond written argument.

1 That's a personal attestation by Mr. Tate. He's vouching
2 for the innocence of his client, then I'm going to put one
3 up there for the government and I'll hear him scream all the
4 way to Richmond.

5 MR. TATE: He already did it.

6 THE COURT: Well --

7 MR. TATE: He wrote on that diagram.

8 THE COURT: No, his wasn't Mr. Brown's initials
9 like yours are your initials.

10 MR. TATE: Well, mine, I put my initials because I
11 wrote it. He put other people's initials on it.

12 THE COURT: Because they testified to it.

13 MR. BROWN: As long as he's not going to object to
14 when I do it, Judge, I'm fine with his.

15 THE COURT: It is -- I mean, it is not evidence
16 but it is argument. But the initials come very close to
17 vouching, but it's not -- I'm just going to leave it because
18 the jurors know that it's Mr. Tate's initials.

19 Mr. Hinson, you have 56 minutes.

20 MR. HINSON: Thank you.

21 THE COURT: We'll be back at 2:40 p.m.

22 (Recess taken.)

23 THE COURT: All right. Anything before we bring
24 the jurors back in?

25 MR. BROWN: No, sir.

1 THE COURT: Mr. Hinson, do you want to come out
2 front?

3 All right. Let's bring the jurors in.

4 (Jury enters courtroom at 2:42 p.m.)

5 THE COURT: Mr. Hinson?

6 MR. HINSON: Thank you, Your Honor. May it please
7 the Court. Members of the prosecution, ladies and gentlemen
8 of the jury.

9 It's been a long hard slide and we're about to the
10 end of it. This is my one chance to talk to you; and as you
11 know Mr. Tate has taken up a little of my time so I'm going
12 to try to talk as fast as I can but I want to begin by
13 saying thank you.

14 We've worked hard. You all have worked hard.
15 You've put in long hours. You have been attentive, you've
16 been contientous, and I think I speak for all us in this
17 courtroom that we appreciate what you've done, the time
18 you've given.

19 You are the jury in this case and it's such an
20 important function, such an integral part of our
21 constitutional rights that when someone is accused of a
22 crime they are not taken before a magistrate or a king or a
23 judge or somebody like that, they go before a jury. And you
24 fulfill that role and you've fulfilled it well and we
25 understand and respect your power of authority here.

1 You know, I grew up in a small town in South
2 Carolina and my grandfather ran a little country store out
3 in the country and he was full of a lot of wisdom. He used
4 to say to me when I was a young man growing up, "Son, don't
5 talk to other people about their money and don't talk to
6 other people about their religious beliefs." And I thought
7 about that and I thought, "Well, here I am."

8 So much of this trial is about other people's
9 money and it's about, you know, there's an undercurrent in
10 this thing about religion, how other people run their
11 churches, how other people feel about things, you know, what
12 their convictions are about such concepts of faith, seeds,
13 love seeds, so forth. And I've got to talk to you about
14 some of that.

15 I want to start by saying it's important to me not
16 to offend you. And if I do that, if I say something that
17 offends you or if I misstate the evidence in some way,
18 that's not what I'm trying to do here. Hold that against me
19 and not against Bishop Jinwright. I'm going to do my best;
20 and I'm going to do my best not to offend you but I have
21 some things I need to say.

22 Now, when we first began this thing, you all will
23 remember -- it's about a month ago now -- we got to get up
24 and we got about ten or 15 minutes to make what's called an
25 opening statement. I made my opening statement and I told

1 you that it might be a while before I got to talk to you
2 again because, from what we were hearing, the government
3 might be at this a while.

4 Well, I think I fulfilled that promise to you. I
5 think that it was a while. And in saying what I said to you
6 at that time, I wanted to tell you what we expected to
7 happen and I don't think that we have been surprised by
8 much.

9 We told you that we did not expect to contest the
10 ultimate principle that Bishop Jinwright's taxes were not
11 well prepared, that they were not accurate in all respects,
12 that he owed some more taxes that -- probably a lot of
13 additional taxes.

14 Taxation of ministers, as hopefully you understand
15 now, is not quite as straightforward as taxation of the rest
16 of you. They have things like housing allowance and other
17 things that factor in.

18 He did not attend to tax matters as he should have
19 and he's gotten on that witness stand -- even though he did
20 not have to, even though it was his constitutional right not
21 to, he's gotten on that witness stand, and he's admitted to
22 you that he did not attend to his taxes as he should. And
23 he says to you that he wants to remedy that; he wants to
24 understand and pay the taxes that he owes. Everything he's
25 got is for sale.

1 We told you that we expected a lot of this case to
2 be about Bishop Jinwright's lifestyle. And you've probably
3 already heard enough about that and I probably don't need to
4 say a whole lot more. But Judge Whitney has explained to
5 you that lifestyle is not at issue in this case, that that
6 is not the question.

7 You know A lot of us might look at the Pope of the
8 Catholic Church, who lives in the Vatican. That's a nice
9 house. He has to Popemobile. His own jet. You know, he's
10 got a lot. He's got the most incredible and expensive art
11 collection in the world; and a lot of people would say that
12 should all be sold and given to the poor, you know, he
13 doesn't need to live so lavishly.

14 But that really is not, you know, the issue here.
15 There are a lot of prominent ministers in the United States
16 who live well. And perhaps many of you believe ministers
17 should live more modestly but, you know, that's not the
18 government's business.

19 You know, Bishop Jinwright has gotten on the
20 witness stand and he's admitted that he was not always the
21 best steward of his church. And as Mr. Tate said to you so
22 eloquently, questions about that are going to be judged in a
23 higher court. It's really not for us to decide here.

24 You know, we -- we talk a lot about separation of
25 church and state in this country and it's usually the church

1 can't do this, the church can't do that -- can't put up a
2 cross here, can't have a manger scene there.

3 But it goes both ways, you know. The church --
4 the government is supposed to stay out of the church.

5 So what are the -- what's the real question in
6 this case? And I -- I think that lawyers are kind of
7 getting around to it. The real question in this case for
8 Bishop Jinwright is did he knowingly and intentionally with
9 intent to defraud the government evade income tax and file
10 intentionally fraudulent tax returns, and did he seek to
11 defraud these financial institutions in his getting car
12 leases? In essence, did he, understanding the law, did he
13 deliberately set about to knowingly break the law?
14 That's -- that's really the ultimate question.

15 You've heard a long description of what's at issue
16 here from the Judge and I ask you to take those instructions
17 and take them seriously. I'm going to highlight a few of
18 them here in just a minute.

19 Well, how do you -- how did you decide? You
20 remember when I talked to you at the very beginning, I said
21 what's going to be for you to decide is what's in his heart.
22 You know, how do we -- mortal as we are, with the inability
23 to see as God sees, you know, what's in somebody's heart --
24 how do we make that kind of discernment? How do we make
25 that kind of decision?

1 Well, unfortunately I'm here to tell you it's your
2 job.

3 You know, as I said a minute ago, Mr. Brown is a
4 powerful man. He has a lot of power at his disposal. This
5 young lady over here is an IRS agent; they give her a gun
6 and a badge; she has a lot of power. Judge Whitney is a
7 judge. He has got a whole lot of power.

8 But in this situation the power is yours. It's
9 really in your hands. You are the ones who have
10 Bishop Jinwright in your hands at this point and you're the
11 ones that have to decide about this.

12 Now, how do you do it? Well, I'm not going to
13 presume to tell you. I'm not going to presume to answer
14 that question. I'm just going to give you some suggestions.

15 One place is to go back to those instructions that
16 the Judge gave you. And he talked for a good while, more
17 time than I have got left this afternoon, so I don't have
18 time to go over all those instructions. I just ask you to
19 consider them very carefully as you work through this.

20 I want to highlight a few things I think it's
21 important for you to remember.

22 The first one is, as the Judge has told you
23 repeatedly, the burden is upon the government. The burden
24 is upon the government. The defendants do not have to prove
25 their innocence. The government has to prove their guilt.

1 Now, how do they have to do that? They have to do
2 it by proving all of these elements that the Judge went over
3 with you. And you need to consider these elements carefully
4 one at a time. If they fail on any element, then that's not
5 your problem. That's their problem. They didn't meet the
6 burden of proof, then you should find Bishop Jinwright or
7 Pastor Harriet not guilty as you consider each and every one
8 of these off offenses.

9 What is the burden? Well, the burden, as the
10 Judge told you, is beyond a reasonable doubt. And he said,
11 "I'm not going to try to define this any more for you; it's
12 a doubt based upon reason and common sense."

13 What we do know is it's the highest burden imposed
14 by the law. Sometimes I've heard it described as if the
15 scales of justice are like this (indicating). Somebody's
16 got to put them on the floor to prove beyond a reasonable
17 doubt. So that's the standard.

18 The Judge went through all the elements in
19 painstaking detail. You have to do that. You have to go
20 through each element and consider each element and be
21 satisfied whether or not the government's has proved every
22 one of them and every one of them beyond a reasonable doubt.

23 Over and over again Judge Whitney talked about the
24 need for the government to prove that these actions were
25 knowingly and deliberately done. There's a concept in the

1 law called mens rea. That's a Latin term. It has to do
2 with bad intent, evil intent, sometimes called felonious
3 intent. It all gets back down to what was in his heart.

4 And you've, you've heard -- and I'm going to
5 highlight here in just a moment the pages I think you need
6 to pay careful attention to. But when the Judge told you
7 about knowingly, he said they must show that he acted
8 voluntarily purposefully and not because of mistake or
9 accident. Which is another way of saying, and he uses the
10 words, negligently, grossly negligent, carelessly. You
11 know, that's not enough.

12 And you might say, well, he sure was careless
13 about the way he got his taxes done. He sure was negligent
14 about the way he kinda got his taxes done. But that doesn't
15 meet the standard.

16 Now, on all of these tax counts, Two through
17 Thirteen, charging evasion and fraudulent returns, there are
18 two critical points. You know, many of us have heard this,
19 us lawyers are very fond of quoting it, you've heard it
20 probably before: Ignorance is no excuse for the law.

21 Well, you know, there's an exception in a crime
22 tax prosecution. Ignorance can be an excuse for a law. And
23 why is that?

24 Well, there's a case that -- that is -- underlies
25 some of these instructions called *United States v. Cheek*

1 where the United States Supreme Court was considering a tax
2 prosecution. What the Supreme Court said in reversing that
3 criminal tax case is the proliferation of statutes and
4 regulations has sometimes made it difficult for the average
5 citizen to know and comprehend the extent of the duties and
6 obligations imposed by the tax laws.

7 They also quoted and approved what was said in
8 another case, and this is what was said: Congress did not
9 intend a person by reason of a bona fide misunderstanding as
10 to his liability for the tax, to his duty to make a return,
11 or as to the adequacy of the records he maintained should
12 become a criminal by his mere failure to measure up to the
13 prescribed standards of conduct.

14 Now, I don't know whether that meant anything to
15 you. But I think what the Court is trying to say is tax law
16 is complicated and so people get the benefit -- the extra
17 benefit of the doubt in a tax case.

18 And, you know, these -- these instructions are
19 going to be sent back to you. I'm going to encourage you --
20 I don't have the time now because I need to make my
21 points -- but go back and read pages 24 and 25 of
22 Judge Whitney's jury instructions on this question. Because
23 he addresses the issue of knowledge at some length; and he
24 talks about, you know, what standard you're to use.

25 While I'm at it, he also at page 17, I think,

1 talks about gifts and how you're to determine whether or not
2 something is a gift. And he talks about the intent of the
3 donor; there's another case that underlies that.

4 And gift is a complicated question. You know,
5 most us think we understand what a gift is; but when it
6 comes to tax law, your ordinary understanding is out the
7 window. You know, it's a -- it's a very technical
8 definition.

9 So, you know, you can ask the question is it
10 reasonable for people in making mistakes about gifts, you
11 know, to understand that complexity of the tax law? Because
12 in essence what I think the Court is -- is telling you in
13 these instructions is that people have to understand the tax
14 law. And if they are mistaken about it, you know, or if
15 they are careless about it, or if they are negligent about
16 it, then that doesn't make them criminals.

17 You know, that may mean that they owe some taxes
18 and some penalties. It may mean that the government can
19 make out a fearsome civil case against them but it does not
20 make them criminals.

21 So I've tried to skip through these instructions
22 quickly because I have got little time. But, you know,
23 you've got to look at these instructions and apply these
24 instructions to decide the ultimate question of what was in
25 the heart, what was motivating Bishop Jinwright.

1 I want to -- I want to just highlight for you --
2 you know, we have been at this for a month now. And for me
3 to begin to talk about all the evidence in this case in the
4 time available to me is just a challenge I can't meet. I'd
5 have to talk 90 miles an hour like that guy on the Federal
6 Express commercial, blah, blah, blah. You wouldn't even
7 understand what I'm saying.

8 So what do we know? Let's hit the high points.

9 You know, you can make fun of it but the truth is
10 Bishop Jinwright is a very, very busy man. During this
11 entire period of time he was a very, very busy man. You
12 know, he makes me tired just thinking about what he does,
13 all the things that he does.

14 You saw him on the witness stand. And, you know,
15 Mr. Brown says, Well, he called people a liar. Well, I
16 submit to you he was forced into an improper choice. You
17 know, he was put in a position where he was asked a
18 question, "Well, if he said that would he be lying?" You
19 know, you either have to say he's lying or what he says was
20 the truth.

21 Well, is that a fair construct? I mean, in our
22 everyday lives, you know, we disagree with people. We have
23 different memories, particularly if we're talking about
24 things that happened ten years ago or nine years ago, or, in
25 some cases in this case 14, 15 years ago. You know, if you

1 disagree in the memory of what happened in the past, is the
2 other people lying?

3 Well, you know, there's another explanation. You
4 know, he wasn't given the opportunity to say that. Remember
5 he was forced into making a choice, either he's telling the
6 truth or he's lying.

7 Well, he said it a time or two. He said he could
8 be mistaken. You know, we could remember things
9 differently. And you think about that for a minute.

10 The setup here is, well, if all these witnesses
11 are lying then, if that's what he says, then you should find
12 him guilty because he's lying. Well, I submit to you that
13 as a practical matter, that's really not what he was saying.
14 He was saying, "I remember it differently."

15 You know, when you push me and shove me against
16 the wall -- and you saw how he reacted. None of us would
17 like to have Mr. Brown cross-examine us for a day and a
18 half. He is a tiger. And Bishop Jinwright perhaps at times
19 got things confused. One thing is clear: He's not real
20 clear to this day on tax principles.

21 But I submit to you he got up there when he didn't
22 have to, when the law protects him from having to do it and
23 he did the best he could.

24 What do we know about this man? Well, we know he
25 graduated from high school down in Wilmington, North

1 Carolina. While he was in school, he went to Bishop --
2 Pastor Sutton's church. Do you remember Pastor Sutton?
3 What a nice gentleman. And he -- and he had a conversion
4 experience when he was in high school. And he -- he was
5 moved to participate in church services; and he participated
6 in Sutton's church services and played music. And he also
7 worked part-time in a funeral home.

8 He was an ambitious, hard-working young man. And
9 he had to -- he had to find a way to make a living. He was
10 knowledgeable about mortuary science from the experience he
11 had, and so he went to school for a year in New York to
12 study mortuary science.

13 And the government wants to make that out that's
14 where he learned the tax law; you know, that's where he
15 studied the tax law, studied accounting. I would submit to
16 you in 1974, you know, getting the training he needed for
17 all of the issues involved in mortuary science for one year,
18 how much of an education did he get about that?

19 Well, we know about -- about Pastor Sutton. You
20 know, he came up here and he says, "I've known this man all
21 my life." The government was nice enough to call him so
22 they could get into evidence that in 2001 and 2004
23 Bishop Jinwright was asked to go back to that little church
24 where he -- where he came out of and preach. So he went all
25 the way down to Wilmington to preach. And each time he

1 went, he got \$300.

2 I mean, and that's -- and that's what -- we got
3 that man in here to establish that in 2001 and 2004 he got
4 \$300 each time and he didn't pay taxes on it.

5 Well, what else did he tell you? He says, "I know
6 this man. He feeds people. He pays their hospital bills
7 out of his pocket. You know, he is a compassionate person
8 who takes care of people's needs out of his own pocket."

9 Now, you know, maybe -- maybe that's a -- maybe
10 that's a bad heart. But I submit to you there's evidence
11 that's -- that's what kind of person you're dealing with.

12 The government called a lot of preachers and
13 teachers. Remember that? They flew them in here from all
14 over the dadgum country. Imagine the expense involved in
15 doing that. They flew people in here from Texas, New
16 Jersey, from Maryland, you know, I think Florida.

17 What does that tell you? Well, Bishop Jinwright
18 was out preaching the Word all over the place. He was
19 constantly going. And you heard about some of these
20 revivals that went on for three, four nights. You know, he
21 goes to some small town in South Carolina and preaches for
22 four nights.

23 Maybe he didn't keep very good records while he
24 was out there doing that. Maybe he owes some taxes because
25 of it. But is that criminal?

1 You know, they established through all these
2 witnesses that they called -- you know, sometimes I remember
3 the term "cloud witnesses." Well, they called a cloud of
4 witnesses. And what did those people tell you? Well, they
5 said he's a very active and busy preacher; he's always on
6 the road. When we ask him to come, he comes. He brings an
7 inspirational message and we appreciate it, what he does.
8 We appreciate the message he brings.

9 The other thing I think came out of that was
10 there's still a lot of confusion, a lot of confusion about
11 this whole this issue of what's a love gift, what's income,
12 when do you get a 1099, when do you not get a 1099? And
13 some of these people issued 1099s and some didn't. You've
14 seen the evidence, some of these 1099s -- you know, the
15 1099s that came, many of them found their way to the tax
16 return. But I submit to you there are plenty of them that
17 didn't send 1099s.

18 And was Bishop going around trying to make a list
19 to make sure he got them all?

20 You know, we know that Bishop Jinwright started in
21 this community. He came back to Charlotte and he went to
22 work in a mortuary business. You know, he felt this call to
23 the ministry and so he went to this college, Livingston
24 College, to study, to educate himself to be an educated
25 person, and he met his wife. He got married. Blessed with

1 a child.

2 And he's called to this little rural small church
3 and he goes to work. He and his wife, they roll up their
4 sleeves and they work hard. And don't you know those were
5 some early tough years where there probably wasn't a whole
6 lot. You know, probably didn't get paid a whole lot.
7 Probably weren't thinking about his retirement back at that
8 time. And he built the church and worked hard in the
9 church. And you heard about you know, the loyalty of a lot
10 of his parishioners.

11 What else do we know? We know -- this is
12 undisputed -- that he always paid somebody to prepare his
13 tax returns, you know, even when he was getting started out,
14 because taxes are not his specialty. That's not what he
15 studied in seminary. That's what he focuses on. So he paid
16 a professional to prepare his taxes.

17 We also know that while he was working to build
18 this church that he thought he should get more education.
19 And he didn't go to some Jake Leg Seminary; he went to the
20 Gordon-Conwell Theological Seminary where Billy Graham is on
21 the Board of Directors. And he studied hard and got a
22 doctorate awarded to him.

23 They asked him to be on their board and he was on
24 their board until this matter came up. Then what did he
25 do -- this person, this evil man over here? He resigned

1 quietly so that it'd bring no embarrassment to that fine
2 seminary.

3 You know, when you think about all he had going
4 on, he was leading his own church, running his own funeral
5 business, and the other -- he had another line of work; and
6 that was leading other pastors, organizing other pastors,
7 organizing enrichment programs for them. And -- and that
8 was, you know, from the sounds of it, that's a big job.

9 And a lot of these pastors came in here and said,
10 "He's somebody I can call on. He's somebody I could look
11 to." And that was a time-consuming, busy activity that
12 generated a whole set of different records.

13 We know that he led pastor convocations,
14 assemblies. We know that he led foreign mission trips. He
15 was busy.

16 We know he's been the generous man. And I'm sorry
17 if I offended people by putting some of these checks on; I
18 thought you should see them. You -- you -- the government
19 put on checks for two or three weeks. They never put any of
20 those checks I put on, so I thought you should see a few of
21 them.

22 You know, it all wasn't a one-way street with him.
23 He gave back. You know, when people asked, he gave. He was
24 solicited for gifts, and -- and for, you know, contributions
25 and he gave. And, of course, the government's going to say,

1 "Well, he got a tax deduction for that. You shouldn't give
2 him any credit for that."

3 But you heard what he had to say. You know, you
4 heard what some of those pastors had to say about that; that
5 he wanted respond to the call, to the need.

6 You know, you heard from Pastor Sutton about that.
7 You heard from Travant Richardson about that. You know, I
8 heard from Travant Richardson and it was -- it -- it took me
9 a moment to compose myself and carry on the examination of
10 Travant Richardson.

11 There's a young man whose life -- who sits -- who
12 came into this courtroom in a nice suit and talked to you
13 about the business he's got going on, the fact that he's
14 married, he's got a family. He's got it going on because
15 Bishop Jinwright took an interest in him. Because
16 Bishop Jinwright took care with him. How many more Travant
17 Richardsons are out there? You've heard the suggestion that
18 there are others. So people benefited from his generosity.

19 You heard some of them from the church. And the
20 Judge will tell you you can consider character evidence.
21 You saw those people come in here; they didn't seem -- they
22 didn't act like they had been hoodwinked or deceived.

23 You know, Bishop Jinwright, the other thing the
24 government established is he is not savvy at tax planning.
25 You know, neither he nor his accountant with very smart

1 about the way things went. You know, you heard that getting
2 money from the church and then giving it back to the church
3 is not a tax advantaged transaction because you don't get a
4 dollar-for-dollar credit for the money you give back. You
5 get a charitable deduction when you give it back; it's income
6 when you get it.

7 And you saw the government didn't even try to
8 gloss this over. They might quarrel about how much they
9 gave to the church, but you saw those giving records. They
10 were the top givers. Bishop Jinwright was the top giver,
11 Pastor Harriet was the second top giver. They gave a lot of
12 money to this church. Bishop Jinwright said that he tithed
13 all the money that he got paid out on the road; and the
14 numbers he gave would suggest that that's true. You know,
15 whether he thought it was a gift or what he thought it was,
16 he was tithing it back to the church.

17 You know, we -- we -- he gave out of his pocket in
18 a nontax-deductible way. You've heard a little bit of talk
19 at some point about how you've got to give to a charitable
20 institution to be able to deduct -- deduct -- deduct the
21 gift? Well, you know, there were times he didn't think
22 about that. Somebody in his church was in a tough way and
23 he gave them a seed, he called it, a love seed out of his
24 pocket.

25 You know, A. L. Jinwright Ministries was set up as

1 a for-profit business. That makes no sense. That makes no
2 tax sense. And we heard over and over again from the
3 government about, you know, you didn't follow the
4 technicalities. You know, if you had done this, if you had
5 a qualified reimbursement plan, you could deduct this. When
6 you use your car to go out to visit the sick or you use your
7 car to go out and, you know, represent Greater Salem Church
8 for an assembly or a convocation or something, you could
9 deduct that if you did it right. But you didn't do it
10 right. You didn't have a qualified plan.

11 And, you know, you can deduction your retirement.
12 Your retirement is excluded from income if you do it right.
13 Instead of getting the church to cut a check to you, if they
14 cut it straight to the retirement place, no income. And so,
15 you know, things could have been done right and it would
16 have been nontaxable.

17 In fact, you know, if you had a qualified
18 scholarship program, you're gonna -- you've heard from the
19 Judge about scholarships. And read through that. Read
20 through it carefully. Because I submit to you there's a way
21 to get a scholarship that would be -- that would not be
22 taxable.

23 Certainly the money could have been straight to
24 the daughter, it wouldn't have gone through Bishop's hands.
25 Nobody could argue it was taxable if it wasn't coming to him

1 and if it was a qualified scholarship program. Somebody
2 could have gone to a little trouble.

3 Neither Bishop nor the church, despite whoever
4 consulted them, you know, got this kind of technical stuff
5 right. But I submit to you that that does not make him a
6 criminal. It may mean he owes some more tax. It may that
7 he owes some penalties and interest. But because of these
8 technical arcane IRS rules were not complied with, that does
9 not show an evil heart.

10 The other thing that bothers me here is that he
11 didn't get good tax advice. I mean, whatever else you think
12 about Mr. Lancaster and what was going on there, you know,
13 Bishop Jinwright did not get good tax advice.

14 He went to DeWitt Foard and Company and he went to
15 Mr. Lancaster because he thought Mr. Lancaster was
16 knowledgeable about taxation matters involving ministers.

17 And how was that done? You know, he -- he -- he
18 paid good money to have his tax returns prepared, his
19 business returns, his ministry returns, personal returns and
20 so forth. And -- and I -- and I would submit to you it was
21 slipshod. It was not carefully done. Didn't get the
22 attention it should have. And why?

23 You know, why would a -- if a man like this comes
24 to a professional, why would he not take the time and sit
25 down with him and go over this stuff?

1 You know, the government says he intentionally
2 withheld key information from his accountant, but I think
3 the evidence shows that he -- that the accountant totally
4 failed at any kind of -- you know, "Here's a questionnaire.
5 Fill this out. What kind of income are you getting? Do you
6 have a qualified reimbursement plan? How's your retirement
7 handled?" None of that.

8 You know, you heard the undisputed evidence from
9 Mr. Lancaster that they would for many years bring him a
10 sack full of stuff. And I can imagine Pastor Harriet and
11 all she's doing, and running around like she does, that
12 that's about the way it happened. That, you know they just
13 threw this stuff in a bag and carried it down to the
14 accountant and it was a mess.

15 And the accountant said, "I don't want this. I
16 don't want to sort through this stuff. I don't want to do
17 the work. You organize it. Here's a list of things you
18 want." And there's not even a template; there's not even a
19 written out list of what the accountant wanted. You'd think
20 there would be but there's not.

21 And how did Mr. Lancaster do the tax return? He
22 didn't do it himself. He got one of the underlings in his
23 office to it. And that person input all the data. And
24 then -- and then he would take the little summary sheet and
25 just do checks and Xs and he'd make the decisions without

1 even calling them.

2 And the government wants to say, "Well,
3 Bishop Jinwright should have known when the Reverend Walker
4 situation came up," because it was highly publicized that he
5 had a problem.

6 And what did Bishop Jinwright say? He said, "I
7 thought I was okay. I had a professional handling my work."
8 Well, that professional was in town. He was in Charlotte.
9 Certainly he saw the publicity related to Walker. Certainly
10 he should have said, "Well, gosh, you know, there might be
11 some issues here. We need to be a little more vigilant for
12 the next year." And he wasn't.

13 Same pattern. You know, we get the form prepared,
14 we get the tax return prepared, we give you the tax return.
15 We don't even sit down with you and go over it. You know,
16 just stop by the office, pick it up. It's got a little red
17 sticker on it -- or a yellow sticker. You all have probably
18 seen those things if you've ever had to sign anything.
19 Little sticker, "Sign Here." And he signed it.

20 Now, maybe you can say, "Well, they were in too
21 big a hurry; they should have taken their time; they should
22 have made this man sit down with them and explain what's on
23 these complicated tax returns and have all the schedules so
24 they understand, make sure everything is on it."

25 But the evidence from accountant is he didn't do

1 that. He just said here's -- you know, he didn't even meet
2 with them many of the years to talk at all. He just, "Your
3 returns are prepared, sign here. This is how much money you
4 owe."

5 You know, the Judge gave you an instruction about
6 how you can draw the inference that by signing that the
7 person had the knowledge of the content of the return; and
8 you can draw that inference, but he told you you don't have
9 to draw that inference. Because somebody signed the return
10 you can draw the inference that they know what's in the
11 return but you don't have to draw that inference.

12 I submit to you that on the undisputed evidence in
13 this courtroom, the evidence is clear they didn't know what
14 was on the return because Lancaster didn't explain it to
15 them. He didn't go over it with them. He just put a
16 sticker on there and said, "Sign here."

17 So you don't have to make that assumption. In
18 fact, you shouldn't make that assumption. In fact, I would
19 submit to you that's a basis right there for not guilty
20 because he didn't know what was on the return. I mean,
21 that's the -- that's the clear evidence in this case they
22 didn't know what was on the return.

23 And Mr. Lancaster, one of the questions I asked
24 him that's an important -- a real important question in this
25 case is, "Did you understand or believe that the Jinwrights

1 were relying upon you to get their returns right?" And the
2 answer was, "Yes."

3 In these jury instruction you have what's called a
4 reliance defense. The government's gonna say, well, you've
5 got to tell them everything to be able to give a reliance
6 defense. Well, I submit to you they did tell them
7 everything. They brought him a sack full of stuff. They
8 brought him a sack full of stuff that the government later
9 got the same kind of sack full of stuff and just hounded
10 them in this case.

11 You know, they brought -- they said they took
12 their bank statements, their cancelled checks and so forth.
13 They took all that to their accountant. And he didn't even
14 look at it. He didn't even pay any attention to it.

15 You know, the questioning of Bishop Jinwright
16 started off about, "How close do you live to the lake? You
17 live in a really fancy house out at the lake." Like it's
18 some kind of offense for a guy like Bishop Jinwright to live
19 in a nice neighborhood out at the lake.

20 Well, you know, the times have changed. A guy
21 like Bishop Jinwright can live in a nice neighborhood out at
22 the lake. You ought to be incensed that somebody like
23 Mr. Lancaster would do the kind of job he did that he would
24 expose these people as he exposed them. That he would take
25 good money to prepare their returns and do the kind of

1 sloppy job he did.

2 I want to talk about the mail fraud counts. They
3 apply just to Bishop Jinwright. Counts Fifteen through
4 Nineteen. And they are all pretty much basically the same.

5 The allegation is that Bishop Jinwright used the
6 mail to defraud the financial institutions who provided the
7 money for these cars to be bought and leased to
8 Bishop Jinwright. And you've heard and it's true that, you
9 know, the government doesn't have to prove anybody lost any
10 money for a felonious fraud crime to occur. But the Judge
11 also told you that you can consider whether or not any money
12 was taken or defrauded.

13 You know, the fact that money is defrauded out of
14 somebody is a suggestion there was some fraud; and here the
15 evidence is clear no money was defrauded out of anybody.
16 The lease payments were made. Most of these cars have been
17 turned in. There may be one or two are still out there.
18 But the evidence is clear: Nobody's lost a dime.

19 You know, does any of this make sense as a fraud
20 case? As something that ought to be brought in here as
21 several counts of mail fraud, serious felonies? Or was this
22 just a way to whipsaw Bishop Jinwright, claiming he said one
23 thing to the leasing company and another on his tax return?

24 Well, you heard the car people and I think you
25 understand where they're coming from, what their motives

1 are. They want to lease cars. And we didn't know how these
2 numbers got on these tax returns -- I mean on these -- on
3 these lease applications. I mean, we say that he said it to
4 them; it must have come from Bishop Jinwright.

5 Well, you know, you saw that return that dealt
6 with the funeral business.

7 In the first block -- I invite you to go back and
8 look at it -- the first block deals with income. And, you
9 know, their number was over \$400,000 of, quote, "income" or
10 receipts; it's all in that block. So the number has to come
11 down.

12 Well, who knows how that conversation went. You
13 know, "How much do you make in your funeral business?"

14 "Well, we make about \$4- or \$500,000 a year."

15 "We talking about net income? We talking about
16 gross income? We talking about adjusted gross income? What
17 are we talking about?"

18 Well, listen. If the -- if the lenders need to
19 know the answer to that question -- to those questions, they
20 know how to do it. People in the bank, they understand that
21 if you really want to know what somebody makes, if the
22 taxable income is important to you, just ask them for a copy
23 of the tax return. They want to borrow money, they'll give
24 it to you; ask them for a copy of the W-2.

25 You know, if you've ever borrowed any money?

1 Maybe you've had to do that. If those were important
2 issues, you know, "What is your taxable income? That's how
3 we're deciding whether or not you're getting a car." Well,
4 ask. They didn't.

5 Why didn't they? Because the man had good credit
6 because he'd been dealing with them for years, because it
7 was a matter of routine. You heard how it was done. In
8 some instances, like with his daughter, they took the car
9 out there and gave her the keys before they ever had any
10 papers signed. Is that defrauding somebody to get a car?

11 The car business brings you the car, gives you the
12 keys, and says "We'll sign later"? That's got the -- the
13 horse and the cart are not in the right sequence there.
14 That's what this -- all these cases, all these mail fraud
15 cases, are built on that kind of flimsy stuff.

16 You know, Mr. Brown wants to laser in on the
17 number. They relied on that number. Well, what was that
18 number? I don't think it says -- I don't recall it saying.
19 If you look it -- it's up to you to remember the evidence
20 that it ever said taxable income. And if it did say taxable
21 income, is that what Bishop Jinwright was thinking if
22 somebody asked him a question offhand? He says, "I don't
23 remember how this happened."

24 "Well, you must be accusing these people of being
25 liars. They're liars if you -- if you don't agree with

1 them."

2 Well, that's not what he was trying to say. He's
3 trying to say, "I don't remember."

4 You know, the first lease we talked about was in
5 2001. It's 2010. That's nine years ago. And the -- and
6 the -- and the car man came in here and said, "I remember
7 that conversation we had nine years ago. I remember I
8 wouldn't put that number on there."

9 Well, ask yourself, is that credible or is that
10 somebody who's worried that maybe he didn't do something
11 right himself? And I'm not accusing him of being a liar.
12 I'm just saying that, you know, it's -- it's unlikely he
13 remembered exactly how that number got on the return or how
14 important it was.

15 And I'll tell you how important it was: It wasn't
16 important. They wanted to lease cars. Banks wanted to lend
17 money. You know, that -- that's part of the trouble that we
18 got ourselves into in 2008, the banks did want to lend
19 money. Shoveling it out of the door, shoveling it out to a
20 lot of people, not paying much attention. But that's not
21 the crime of mail fraud.

22 I don't have much time to talk about the
23 government's case. But, you know, I was struck by Kellerman
24 and Howze. You know, the government says to you, "Well,
25 these people, they were reliable people; they were giving

1 good reliable advice." Well, let's examine that. What kind
2 of reliable advice were they giving?

3 They got to this courtroom, this courtroom, and
4 the two of them were still disagreeing about whether or not
5 you could give a love gift -- whether a church can give a
6 love gift to a pastor of the church that is excludable from
7 income, that could be treated as a gift. Do you remember
8 that?

9 Mr. Kellerman says you can't ever do that. If
10 it's the church, if they are the employer, they cannot give
11 a love gift. It will not be excluded from income.

12 What did Mr. Howze say? The expert, the CPA, the
13 guy that Mr. Brown admired so much and had such pleasant
14 conversations with before he got -- you know, before he got
15 here testifying. What did he say?

16 He said, "Well, if you use my little -- my little
17 envelope that says 'Given out of disinterested love and
18 affection' and you take up that collection and give it
19 straight to the preacher, you know, it's tax-free. It's a
20 love gift." That's what he said in this courtroom.

21 After all the preparation, after meeting with the
22 IRS, after knowing he's going to be on the witness stand, he
23 comes in here and gives what I think the government would
24 have to admit is bad advice according to them. You know,
25 because as far as the government is concerned, everything is

1 taxable. Every time you take a dollar out of one pocket and
2 stick it in the other, it's taxable. That's the
3 government's view of the world.

4 A lot of these people that got on this witness
5 stand weren't so sure about that; but one thing they were
6 sure, of these people got a lot of power. They can hurt
7 you. And so I better say, "Yes, sir, we always think about
8 1099s; whether we send them or not, we all understand
9 1099s."

10 And Mr. Brown had his note that he was so proud
11 of, love gift, compensation, income. And there were 47
12 people from churches that were called to the witness stand
13 and three of them signed on to that. Well, that's an
14 interesting vote.

15 The government gets into the people who used to be
16 on the board of the church, and they went this way.
17 Remember that? You know, Ms. Chiles, very nice lady. Ms.
18 Chiles said, "We weren't fools. We voted -- you know, we
19 voted for these things. We might not have liked them. We
20 might -- it might not have been a good idea, we probably
21 shouldn't have done it, but we voted for all these things."

22 Mr. Gandy, you know, he was clueless. You know,
23 "We didn't know about this stuff."

24 Ms. Chiles and Mr. Gandy both agreed that
25 Mr. Howze never sat down with them and went over that

1 management letter. That management letter that Mr. Brown
2 kept calling a certified audit. You know, he couldn't keep
3 straight what a management letter and a certified audit was.
4 Those are two different things we've heard. But he called
5 them -- you know, he conflated them, put them together.

6 Ms. Chiles said, "I don't remember meeting with
7 that Howze guy."

8 Mr. Gandy said, "I don't remember meeting with
9 that Howze guy."

10 Mr. Howze said, "Oh, I sat down and went over this
11 at great length with the board with the Jinwrights there."

12 Well, is somebody lying? I mean, if they're
13 disagreeing with each other? Or maybe they are just
14 mistaken. Or maybe when they get worked over and asked
15 about this stuff years later, you know, things get suggested
16 to them and they think about them and they say, "Oh, yeah.
17 We must have done that."

18 Ms. Chiles told you that they had this
19 confrontational meeting around Labor Day and the board met
20 without the Jinwrights. Bishop Jinwright, you know, Let
21 them go meet. You all go meet with each other. You know,
22 don't worry about me dominating things. You all go meet,
23 solve this problem. You know, we -- we do have a problem
24 because the church is -- you know, people around here are
25 trying to repossess our air conditioner. You all go meet.

1 And they met and they talked. And Mr. Brown says
2 those minutes indicate that they decided things, that they
3 resolved things and so forth.

4 What did Ms. Chiles tell you? She said, "We
5 chickened out. You know, we had a big meeting, we decided
6 we were going to do all these things and confront Bishop
7 with all this stuff; and when we saw him, we loved him, you
8 know, we didn't. We didn't."

9 What was Mr. Gandy all fired up about? It was
10 that 501(c)(3) thing. And -- and, you know, does he -- does
11 it add up in that 501(c)(3) story? I mean, think about it a
12 minute.

13 Mr. Howze, who says that he did a certified audit
14 for the church, he put in that 501(c)(3) application that
15 Pastor Harriet wasn't getting any money. He had to know
16 otherwise. He was in there auditing, he says.

17 What was that all about? I don't know. I can't
18 quite figure that out.

19 Howze admitted that he had somebody back in his
20 office in Chicago putting together this 501(c)(3)
21 application. He was probably out on the road marketing his
22 services to other churches, out trying to make a living. He
23 had somebody at his office talking to somebody in the
24 Greater Salem office, we think that's Jenell Barnett that
25 you never heard from, and the story is, well, she must, you

1 know, she -- Bishop would have to talk about how much he's
2 making for his funeral home.

3 Well, maybe the question might have been asked,
4 How much did the funeral home make? Well, \$4-, \$500,000.
5 We didn't know how that change -- that exchange went on.

6 The one thing we do know is that Howze is the one
7 who filled out that application. Howze is the one who sent
8 it in. Howze is the one who made the representations to the
9 IRS. And maybe it is that Mr. Gandy had a discussion with
10 Mr. Howze and was alarmed that Mr. Howze wasn't as alarmed
11 as he was; because Mr. Howze, who then had this
12 correspondence with the IRS, he never said, "Whoa, wait a
13 minute. Time out. Got a problem here. We might have given
14 you wrong information."

15 You know, financial terms were thrown about so
16 carelessly in this courtroom: Management letters.
17 Certified audit. Terms that are important to this case.
18 Compensation. Gross income. Net taxable income. Gross
19 revenue. Net profits. Those are all important tax terms
20 that can be confusing.

21 You know, the Kingdom of God is not run on
22 generally accepted accounting principles. Thank goodness.
23 Because all of us might be in a whole lot of trouble if it
24 was.

25 You know, if -- if -- if the ultimate judgment is

1 run on generally accepted accounting principles, we all
2 might be in trouble. And, you know, if it's a crime to be
3 less than careful about your spending, if it's a crime to be
4 more optimistic about where the money is going to come from,
5 if it's a crime to think that money -- you know, God will
6 provide, then probably most of us need to be in jail.
7 Because in 2008 we all got our financial comeuppance.

8 There was a big financial institution in this town
9 that went under, basically got taken over by another big
10 financial institution because they were overextended. And,
11 you know, probably the Congress of the United States needs
12 to be in jail because are they balancing the books? You
13 know, are they spending more than they take in?

14 The government relied on Nelson Adesegha and
15 Darlene Perkins, and you've already heard some about them.

16 You've heard that Adesegha was a Muslim. Well,
17 don't you remember that Adesegha is the guy who started
18 putting the housing allowance, auto allowance and the
19 retirement income on the W-2? And Bishop Jinwright went
20 along with that. You know, "Nelson, if that's what you
21 think needs to be done, do it." That reform, that change
22 was made during Nelson Adesegha's time.

23 Mistakes. You know, the government made a lot of
24 them, ladies and gentlemen of the jury. And they are going
25 to tell you, "Well, they're not that important. You know,

1 we fixed them, et cetera" but think about that.

2 This man -- they -- they want to convict this man
3 of crimes for mistakes when they've got a couple of years to
4 get their case together and they come in this courtroom and
5 they are double-counting deposits, not taking out transfers
6 from one account to another.

7 You know, they've got -- they've got Darlene
8 Perkins -- or the lady that -- yeah, I think that's her
9 name -- who is doing their charts for them. And she says
10 she is a disinterested witness. She -- she doesn't have any
11 axe to grind. But she comes in as a volunteer to work for
12 the government to prepare these charts that turned out to be
13 wrong; they had to come in and change them.

14 They made mistakes. We all make mistakes. Every
15 one of us makes mistakes.

16 And then the Tiari-El situation. I'm running out
17 of time. But think about the Tiari-El situation. What does
18 it prove to you? What it proves to you is when the
19 Jinwrights for one time in their lives hears from the United
20 States Government, from the IRS, "You have -- you've got a
21 problem."

22 Now, they told you that they went into that
23 Tiari-El situation and got snookered. And a judge entered
24 an order that people like them got snookered. We had to
25 bring that to your attention. The government did not bring

1 to your attention.

2 What is going on there? What is going on that the
3 government would not tell you about the fact that those
4 returns were withdrawn by the Jinwrights? Well, I'll tell
5 you what's go on. The Jinwrights, when they were confronted
6 by the IRS, the one time they are ever confronted by the
7 IRS, they obediently signed the forms and sent them back.

8 You know, when I was a kid growing up, I admired
9 cowboys. I admired people like Marshal Matt Dillon. You
10 know, they would -- they would make it clear that you --
11 that what the intent was. They fired a warning shot.

12 Well, there wasn't any warning shot here. This
13 went straight to criminal; never was in civil.

14 I've got so much to say and so little time to say
15 it. How much time do I have left?

16 MR. DAVIS: Five minutes.

17 MR. HINSON: Five minutes. All comes down to that
18 five minutes.

19 Well, members of the jury, you know, the economics
20 in Bishop Jinwright's world doesn't match up with the
21 Internal Revenue Code. Anybody who's spent any time with
22 the Bible understands that. Gifts are given freely,
23 undeserved gifts. People get things that they don't
24 deserve. And it's full of references like sowing seeds, and
25 you know them all. Some of you on this jury know what I'm

1 talking about.

2 When those worlds collide, when the Internal
3 Revenue Code that is filled with arcane language and so
4 forth -- when those worlds collide, you know, there can be
5 some mistakes made. You've heard a lot of testimony; you've
6 got some difficult legal principles to apply, and if you're
7 struggling and you don't know what to do, then the answer is
8 clear: You have a reasonable doubt. Allow that reasonable
9 doubt.

10 You know, it's -- it's -- there are plenty of
11 reasons to give him the benefit of the doubt. One of the
12 more propelling ones to me is a guy like Travant Richardson.
13 You know, there are a lot of people out on the west side of
14 Charlotte who need a leg up. They need somebody to be a
15 minister to them. There are a lot of people all over
16 Charlotte who need that; you know, in all parts of
17 Charlotte. But especially people who come down here like
18 Travant Richardson. Who comes out of a neighborhood where
19 95 percent of the people are in jail or dead, as he said.
20 They need -- they need somebody who's got a positive
21 approach; somebody to lead them.

22 If that's the kind of heart we're dealing with
23 her, you know, you can consider his character. The Judge
24 says you can consider his character. And so consider it,
25 you know, and give him the benefit of the doubt. Tell the

1 government, "You know, you folks need to just collect the
2 taxes. You can do that. You can have a civil audit. You,
3 know, you can assess penalties, interest, you know, you can
4 collect the money."

5 Goodness knows, the United States Government needs
6 the money, so collect the money. Audit. You know, they
7 have already done the audit. That lady, she's an auditor
8 usually; she does civil cases. Ms. Polk. They've got the
9 audit, just collect the taxes.

10 That's what you ought to tell them: Get this out
11 of here. Just collect the taxes. Impose some penalties if
12 you want, collect some interest. But we're not convicting
13 them of any crime because that's not what's in their heart.

14 Thank you.

15 THE COURT: Thank you, Mr. Hinson. Ladies and
16 gentlemen do we need a break? We continue?

17 All right. Mr. Brown.

18 MR. BROWN: I'm ready to go, Judge, but I thought
19 I saw some of the jurors answer your question in the
20 affirmative.

21 THE COURT: Well, okay. You do need a break. All
22 right. Can we limit it to a five-minute break? Is that
23 enough? Five minutes.

24 (Jury leaves courtroom at 3:37 p.m.)

25 THE COURT: All right. Let's take a five-minute

1 recess.

2 (Recess taken.)

3 THE COURT: All right. Mr. Brown, are you ready?
4 Mr. Randall?

5 MR. BROWN: Yes, sir.

6 THE COURT: Let's bring the jurors in.

7 (Jury enters courtroom at 3:43 p.m.)

8 THE COURT: Mr. Brown.

9 MR. BROWN: Thank you, Judge.

10 Folks, I'm going to start off with a little
11 unfinished business here. Remember Mr. Tate when he
12 finished up, where he ended up with his initials on that
13 piece of paper? I want you to remember something else: My
14 colleague, Mr. Hinson -- who is as tough as nails, we
15 haven't always agreed, we certainly fought during this
16 trial -- he didn't do that.

17 I can walk over here and I can put my initials on
18 that document too. But that would be wrong. That's not how
19 we do business in the United States government and good
20 lawyers don't practice that way.

21 Now, let me tell you a couple other things
22 Mr. Tate did. He wanted to talk to you about Harriet
23 Jinwright's 1099s. He wanted to tell you that most of her
24 income but not all of it, most of her income got reported
25 when she went out there on those speaking engagements.

1 But you know what he didn't do? He didn't want to
2 talk about all the money she got from Greater Salem Church.
3 You know why? Because she got almost \$1 million from
4 Greater Salem Church. He didn't want to talk about that.
5 He wanted to talk about the mistakes in the government's
6 evidence.

7 Here's the vicious attack that Mr. Tate laid on
8 poor Linda Polk. At the end of her excruciating
9 cross-examination, she conceded there was about \$442 worth
10 of errors in 2003, \$4,000 worth of errors in 2004.

11 And if you remember, we didn't worry about whether
12 they were in the 35 percent tax bracket, we gave them
13 dollar-for-dollar those excruciating painful errors; and the
14 end result was that Mr. and Ms. Jinwright still had tax
15 liability of over \$122,000, \$147,000, \$58,000, \$117,000,
16 \$157,000, almost \$700,000 between Harriett and Anthony
17 Jinwright in taxes. In taxes that they owed the United
18 States government. And a big bunch of that belongs to
19 Harriett Jinwright.

20 Mr. Tate said where in the indictment, where in
21 the indictment is there any mention about not giving out
22 1099s to his family members? All the conversations we had
23 about that in this courtroom. Well, let me read it so
24 Mr. Tate can see it too.

25 It says in paragraph 23 on page 8 of the

1 indictment: "In addition, A. Jinwright" -- that would be
2 Mr. Jinwright -- "and H. Jinwright" -- that would be
3 Mrs. Jinwright -- "took affirmative steps to prevent the
4 issuance of Forms 1099 for themselves" -- which we've heard
5 repeatedly throughout this trial -- "and others as a means
6 of concealing the receipt of taxable income. In fact, when
7 a finance minister of Greater Salem Church insisted on
8 issuing a form 1099" -- that would be Mr. Adesegha, in case
9 you need reminding -- "over the strenuous objections of
10 Anthony Jinwright and Harriett Jinwright to reflect the
11 taxable income received by a family member" -- that would be
12 Addie Porter -- "Anthony Jinwright and Harriett Jinwright,
13 the finance minister was fired."

14 That's where it is in the indictment, folks. And
15 that's why on that paragraph alone you can convict both
16 Mrs. Jinwright and Mr. Jinwright on Count One of the
17 indictment.

18 We didn't hear, notwithstanding all of the
19 argument, we didn't hear again or yet any serious challenge
20 to the numbers that Ms. Polk provided, page 1 of the
21 evidence here. As a revenue agent of 35 years, what she
22 told you she did. She looked at the paper, she added up the
23 numbers and she came up with these tax liabilities. This
24 one document alone satisfies two of the elements of both the
25 false return charges and the tax evasion charges. That is,

1 both Mr. and Mrs. Jinwright, during the years charged in the
2 indictment, had unreported income as reflected on Ms. Polk's
3 schedule and they owed taxes.

4 So what I've said to you again, an awful lot of
5 time -- mostly yours -- and an awful lot of energy has been
6 wasted in this courtroom arguing about whether there was
7 unreported income, because at the end of the day, the
8 evidence established it without contradiction.

9 There was no defense expert who said those numbers
10 are wrong. Mr. Walsh, all he could say is, with all due
11 respect to Mr. Walsh, "Well, maybe if you took out the
12 transfers, the amount of deposits in excess of reported
13 income would be lower."

14 "How much lower, Agent Walsh?"

15 "Well, there'd still be about \$3 million worth of
16 unreported income based on the deposit analysis." And he
17 didn't find any fault with the expenditures analysis.

18 Now, what we didn't hear through two hours of
19 argument from my colleagues is any discussion about the
20 false financial reports that were submitted year after year
21 after year after year to the Greater Salem Church
22 congregation. As I told you in the opening portion of my
23 argument, that's important because once Greater Salem Church
24 became a 501(c)(3) organization, the Internal Revenue
25 Service had the right to require Greater Salem Church to

1 keep accurate books and records. But they didn't.

2 And they didn't not because the congregation,
3 which loyally follows Mr. and Mrs. Jinwright to this day,
4 were falsifying the records, they didn't even know the
5 records were false. The records were falsified because
6 Harriett Jinwright falsified them in '03 when Darlene
7 Perkins was the finance administrator; Anthony Jinwright
8 made them false in '04; and Harriett and Anthony Jinwright
9 made them false in '05.

10 We showed you the '05 budget repeatedly because
11 Travis Mauney came in here -- apparently not like
12 Mr. Adesegha with an accent and some baggage -- he came in
13 here and he said, "Yeah, the church has always been upside
14 down financially and yet the financial reports we always
15 gave to the congregation falsely stated that the church was
16 in the black."

17 Perkins, Adesegha and Mauney agreed on that fact.
18 And what they also agreed -- and, more importantly, what
19 Mr. Gandy and Ms. Chiles also agreed is the members of the
20 finance committee knew it, the members of the Board of
21 Directors knew it.

22 Who sat on the finance committee? Harriet
23 Jinwright, and Anthony Jinwright. Who sat on the Board of
24 Directors? Harriet Jinwright, and Anthony Jinwright. And
25 Harriet Jinwright, Anthony Jinwright, and the other people

1 that unknown to the grand jury but unnamed in the
2 indictment, you heard from them too.

3 Regina Chiles told you, "I knew every year that we
4 were lying to the congregation. I knew every year that we
5 were providing false financial information to the
6 congregation. I knew until the spiritual warfare in my
7 heart caused me to walk out of that church and not look
8 back."

9 Larry Gandy told you the same thing. He thought
10 maybe he could salve his conscience if he just left the
11 Board of Directors. He confronted Mr. and Mrs. Jinwright
12 with the obvious facts that they already knew. He said he
13 didn't know it. He confronted them with the fact that
14 Anthony Jinwright signed that false 501(c)(3) application
15 which falsely stated that Mrs. Jinwright didn't have any
16 income.

17 Now I want to correct something Mr. Hinson said.
18 Your recollection of the evidence controls. But do you
19 remember Mr. Howze saying twice, and he said it to
20 Mr. Hinson, "I didn't send that 501(c)(3) application in.
21 My office prepared it. We sent it back to the Greater Salem
22 Church. Anthony Jinwright signed it. Anthony Jinwright
23 sent that false document to the Internal Revenue Service
24 knowing it contained false information."

25 But Mr. Gandy didn't know about that 501(c)(3)

1 application; he got it from Mr. Howze in September 2004.
2 More importantly, Mr. Gandy didn't even know about the Howze
3 audit report.

4 Now, Mr. Hinson wants to quibble with whether
5 we're talking about the audit report or the financial
6 statements or the management letter. If you look at the
7 management letter, the first line is: As a result of our
8 audit we're giving you in plain English, folks, what we
9 found.

10 It is the thing that was designed to be a tool for
11 management to correct the deficiencies found by Mr. Howze's
12 audit report. Not complicated financial information, not
13 CPA-speak, not lawyer talk in there. It says here's what
14 we're finding. You all are giving what you call gifts to
15 Mr. and Mrs. Jinwright. That's illegal. There's no such
16 thing as a gift from employer to an employee. Stop it. If
17 you're gonna do it, you'd better report it as income because
18 it is.

19 Mr. Gandy hadn't seen that management letter
20 before that audit came in. And I submit to you folks the
21 reason why he didn't see it: While Mr. Howze thought he was
22 meeting with the Board of Directors, if you remember, when I
23 asked him the last time, "Tell us who you met with," what he
24 said is, "Well, I know I met with Anthony Jinwright twice.
25 I know I met with Harriet Jinwright at least once. I'm not

1 sure who else I met with. I can't give you any other
2 names."

3 We know it wasn't Larry Gandy because he said he
4 didn't see the audit report. He never met with Howze. We
5 know it wasn't Regina Chiles. She said she never saw the
6 audit report; she never met with Mr. Howze. We know it was
7 not two other members of the Board of Directors, who were so
8 incensed when they saw the audit report they sent in letters
9 of resignation and would not even go to the meetings.

10 There are four members of the Board of Directors
11 who weren't there. I submit to you what the evidence shows
12 is Mr. Jinwright, Mrs. Jinwright, their good friend Varnell
13 Gray -- who came in here and did everything in his power to
14 try to explain all of their missteps -- he was there,
15 because he produced the audit report to Mr. Gandy when he
16 asked for it. He have didn't have call Howze to get it. He
17 had a copy. He was there. And maybe Jenell Barnett.

18 Maybe those were the Board of Directors that
19 Mr. Howze thought he met with. But regardless, the two
20 people he knew he met with were the defendants in this case.

21 Mr. Gandy was so incensed when he got the audit
22 report that he marched into that meeting with a letter of
23 resignation which laid out the factual findings that he had
24 just recently from the audit report, put those on the cover
25 sheet of his resignation letter, and said, "I will no longer

1 serve on this Board of Directors and you all on this Board
2 of Directors need to think about what you're doing because
3 we are liable for their misconduct."

4 Now, Mr. Gandy told you, his family was plugged
5 in. He had salved his conscience; he had washed his hands.
6 And like Pontius Pilate, he was going to leave the Board of
7 Directors and what they did after that was up to them. But
8 he was going to stay in the church. But he didn't make it
9 any further than the sanctuary on Sunday morning when, just
10 like Ms. Chiles told you, just like Ms. Perkins suffered, he
11 got into the sanctuary and what did he hear? He heard
12 Mr. Jinwright already on the pulpit saying, "Ain't nobody
13 studying the IRS."

14 Gandy said, "He isn't going to learn. He isn't
15 going to listen. He's going to drag those members of the
16 Board of Directors down with him. This is a crime in
17 progress and I'm outta here. And he took his family and he
18 left that church.

19 Regina Chiles left her church. Darlene Perkins
20 left her church. Travis Mauney, the loyal man, last man
21 standing, stayed there and year after year he pled with
22 them, "Let me give you a 1099. Let's make this right.
23 Everybody knows this is income. Let's report it." They
24 wouldn't do it. Travis Mauney left his church.

25 Neither -- neither counsel for the defendants

1 wanted to talk about those false financial reports. But if
2 you look in paragraph 28, page 9, of Bill of Indictment, it
3 says, the grand jury charged: "A. Jinwright and H.
4 Jinwright took affirmative steps to conceal the financial
5 condition of Greater Salem Church. For example, Harriett
6 Jinwright and Anthony Jinwright instructed a number of
7 members of the Greater Salem finance committee that in
8 preparing the annual financial report to the congregation
9 they should compute the annual expenses using only the first
10 11 months of the year, while showing contributions to
11 Greater Salem Church for the entire 12-month period. Yet
12 another finance administrator was told to create financial
13 reports that made it appear that Greater Salem Church was in
14 the black when, in fact, it was in the red."

15 And every one of those financial reports that were
16 submitted from 2004 forward were submitted after the IRS had
17 granted tax exempt status to Greater Salem Church; and every
18 time a financial report was submitted to the congregation
19 which was false, that impeded the Internal Revenue Service's
20 ability to do its functions, to carry out its legal
21 obligations, and that makes Mr. Jinwright and Mrs. Jinwright
22 guilty of the conspiracy as charged in Count One.

23 Now, Mr. Hinson talked to you about, "Why don't
24 you just let them pay the taxes?" Remember when we started
25 out I told you this is a criminal case. It's not a civil

1 case.

2 This case is not about tax collection. You don't
3 have the authority to impose taxes and that's not my job.

4 I'm not a tax collector. I'm a prosecutor. I
5 prosecute people based on the evidence of criminal activity;
6 and God knows, you've seen enough of that in this courtroom.

7 Don't be mislead by Mr. Hinson invitation for you
8 to let the IRS handle this in some civil fashion. That's
9 like bringing the bag of money back to the bank after you've
10 stolen it, walked out and got caught. You can't make it all
11 right by putting the money back on the teller table.

12 This is a crime, ladies and gentlemen, and the
13 evidence establishes that they are guilty. Your job is not
14 to worry about the tax payment; your job is to determine
15 whether or not they should be held accountable for seven
16 years of criminal activity.

17 Mr. Hinson says, "Where is the evidence they
18 knew?" My gosh, what a question.

19 Here is the time line of the defendants'
20 knowledge, folks. This isn't about a good faith
21 misunderstanding of the law; this is about a willful refusal
22 to comply with the law despite being told time and time and
23 time again what the law requires.

24 Mr. Kellerman, the bookkeeper, told both Mr. and
25 Mr. Jinwright back in November of 2001, "All of these

1 payments that you're getting from the church, the tax
2 payments, the so-called scholarship payments for your
3 daughter when there's no scholarship program at all at the
4 church -- the tuition payments is more accurate -- the
5 vacations that you're getting, the car allowance, the lease
6 of the Mercedes Benz, Mr. Jinwright, all of those payments
7 that you're getting from the church are income to you. And
8 if you don't want to have it run through payroll, which is
9 what you should do, if you don't want to have it run through
10 payroll so it ends up on your W-2, then you should get a
11 1099 because it's income which you're obligated to report on
12 your tax return."

13 Mr. Kellerman told them before any of the crimes
14 charged in this indictment. That alone, that alone is
15 sufficient evidence that they knew that they were
16 underreporting their income but it doesn't stop there.

17 Darlene Perkins, as the finance administrative in
18 July of '03 through January '04 when she was sick in her
19 heart and walked out of the church, told them the same thing
20 Kellerman told them, "These payments are all income. You
21 have to report this. It should go through payroll."

22 Mrs. Jinwright said, "No, I don't want it to go
23 through payroll." Of course not. If it goes through
24 payroll, Lancaster is going to see it and it's going to go
25 on the tax return. They don't want it on the tax return.

1 So Perkins said, "Then we ought to issue a 1099."

2 "No. We don't want a 1099."

3 Perkins' response was, "That's not my problem. My
4 problem is the financial disarray of the church. But if it
5 doesn't go through payroll, it doesn't get on the W-2. If
6 you don't let me issue a 1099, then it's up to you,
7 Mr. Jinwright, and up to you, Mrs. Jinwright, to make sure
8 that you properly and truthfully account for the income that
9 I'm telling you is reportable." But they didn't do it.

10 Mr. Howze came in in January of '04 with his audit
11 report and his management letter and he told them again, in
12 writing -- Exhibit 17A if you're inclined to look at it --
13 he told them, "All those things that you're getting are
14 income. If you don't run it through payroll and you don't
15 get it on a W-2, you need to get a 1099."

16 Mr. Gandy told them the same thing in September of
17 '04 after the emergency meeting when he got ahold of Howze's
18 management letter and audit report. He stormed into that
19 meeting and he said, "You all need to report this. Your
20 compensation is not getting picked up. You need to get
21 1099s. And you're making -- you're putting the board at
22 risk." He told them.

23 They were told again when Mr. Howze did the second
24 audit. In a letter in December of '05 Mr. Howze told them
25 exactly what he had told them the previous year. You can

1 match up line by line Exhibits 17A and 17B. Mr. Howze told
2 them twice, "All of this stuff is income."

3 Now, something else. I just want to pause for
4 moment. Mr. Tate wants to explain away why Mr. Howze didn't
5 come back; and his explanation to you, based on I'm not sure
6 what, is that Nelson Adesegha had him fired. Well, that's
7 not accurate.

8 Nelson Adesegha came on in September of '04. He
9 got fired in October of '05. Mr. Howze's second report is
10 dated December of '05. Mr. Howze was still there after
11 Adesegha had already been fired.

12 So the explanation that Mr. Tate wants you to
13 believe about why Mr. Howze didn't come back isn't proven by
14 any of the evidence in this courtroom and is disproved by
15 the chronology of events. You heard why Mr. Howze didn't
16 come back; because Mr. and Mrs. Jinwright didn't want to get
17 it right. They didn't want to follow the law. They wanted
18 to evade their taxes. They wanted to avoid the very
19 knowledge that they get from Kellerman, Perkins, Howze the
20 first time, Gandy, Adesegha in the middle, Mr. Howze the
21 second time.

22 Then we have something neither defense lawyer
23 wanted to talk about. In April of 2006 one of the spiritual
24 sons of Mr. and Mrs. Jinwright, Pastor John Walker from
25 Macedonia Baptist Church -- and I want to recall your

1 attention to one thing. When Mr. Hinson was going through
2 that eight hours of looking at checks, every time he came
3 across one from Macedonia Baptist Church, he sort of got
4 past it a little quicker. Any time he saw a check to John
5 Walker, he went very quick.

6 John Walker is not somebody they wanted to talk
7 about. Because John Walker was a friend his; John Walker
8 was his spiritual son. And John Walker was indicted in
9 Federal District Court for doing exactly what Mr. Jinwright
10 and Mrs. Jinwright are accused of doing in this courtroom.

11 That's personal knowledge, folks. When your best
12 buddy gets charged with doing what you're doing, you know at
13 that point -- if you didn't know it from Kellerman, Perkins,
14 Howze and Gandy, you know at that point -- that what you're
15 doing is not just wrong, it's just not a matter of
16 confusion. It's a crime.

17 But what's important about that is that was April
18 of 2006. They are charged with evading their taxes in 2006
19 and 2007, two tax returns that they filed after John Walker
20 was indicted for the very things that they are charged with,
21 for the very things that give them notice of criminality of
22 their conduct, they filed two more false tax returns doing
23 the same ole same ole.

24 THE COURT: Two minutes.

25 MR. BROWN: Yes, sir. Thank you.

1 John Walker pled guilty in this courtroom in
2 December of 2006. Any question about the criminality of
3 their conduct at that point in time was over. They knew at
4 that point in time what they were doing was illegal, and yet
5 they filed their 2007 tax return after that which willfully
6 omitted income yet again.

7 And I want to talk to you about the confusion,
8 folks. There was no confusion in John McCullough's mind,
9 their other spiritual son, from January -- I mean from '01
10 through '07 because he issued 1099s to both of these
11 defendants. There was no confusion in the mind of their
12 spiritual father, Ralph Metz (ph) --

13 THE COURT: One minute.

14 MR. BROWN: -- who provided them with 1099s. And
15 again, in the words of Pastor Mickens, there hasn't been any
16 confusion on this area -- in this area for 20 years.

17 In my 30 seconds remaining let me just remind you
18 about Mr. Lancaster.

19 He was called a liar by Mr. Jinwright as well, but
20 that's because he said all that stuff that Mr. Jinwright
21 told you about talking to Lancaster about taxes was just a
22 lie. And so the only way Mr. Jinwright could cover that lie
23 is to call Mr. Lancaster a liar.

24 Ladies and gentlemen, this case now is very real.
25 I submit you should find both defendants guilty of all

1 counts in the indictment.

2 THE COURT: Thank you.

3 We have the final instructions up on the screen
4 now.

5 Now, members of the jury, you have heard the
6 evidence and the arguments of counsel for the government and
7 for the defendants. It is your duty to remember the
8 evidence, whether it has been called to your attention or
9 not; and if your recollection of evidence differs from that
10 of the attorneys, you are to rely solely upon your
11 recollection of the evidence in your deliberations.

12 It is our duty to not only consider all the
13 evidence but also to consider all the arguments, the
14 contentions and positions urged by attorneys, and any other
15 contention that arises from the evidence and to weigh them
16 all in the light of your common sense and, as best you can,
17 to determine the truth of this matter.

18 The law, as indeed it should, requires the
19 presiding judge to be impartial. Therefore, do not assume
20 from anything I may have done or said during the trial that
21 I have any opinion concerning any of the issues in this
22 case.

23 I instruct you that a verdict is not a verdict
24 until all 12 jurors agree unanimously as to what your
25 decision shall be. You may not render a verdict by a

1 majority vote or any other voting mechanism aside from a
2 unanimous verdict of 12.

3 The Court suggests that as soon as you reach the
4 jury before beginning deliberations you select one of your
5 members to serve as foreperson. This individual has the
6 same vote as the rest of the jurors but simply serves to
7 preside over the discussions. Once you begin deliberating,
8 if you need to communicate with me, the foreperson will send
9 a written message to me by knocking on the door or ringing
10 the buzzer and handing it to the marshal.

11 However, you are not to tell me how you stand
12 numerically as to your verdict. For instance, should you be
13 split in your voting at any particular time, you would not
14 tell me the specific numbers of division in your note.

15 We use a verdict sheet. In this case, we use two
16 verdict sheets because there are two defendants. There's a
17 separate verdict sheet for each defendant in this case.
18 This is simply the written notice of the decision that you
19 reach in this case.

20 As soon as you have reached a verdict as to the
21 counts alleged in the Bill of Indictment, you will return to
22 the courtroom and your foreperson will, on request, hand the
23 verdict sheets to the clerk. There are places on the
24 verdict sheet for the foreperson to enter the verdict by
25 placing a checkmark beside the jury's decision, sign it and

1 date it.

2 During the trial several items were received into
3 evidence as exhibits. You will not be taking exhibits into
4 the jury room with you at the start. If after you have
5 begun your discussions of the case you think it would be
6 helpful to see any of the exhibits, have the foreperson send
7 me a note asking to see them.

8 If you need a break during deliberations, you may
9 do so in the jury room; or if you need a break outside the
10 jury room, a marshal will escort you. But you must not
11 deliberate during a break unless all 12 of you are together.
12 If you are not together, then do not talk about the case
13 until all of you are back together.

14 You may take the case and see how you find. And I
15 ask Ms. Nall to remain in her seat. The clerk of court will
16 bring back the two verdict sheets, the indictment and the
17 jury instructions.

18 (Jury leaves courtroom at 4:10 p.m.)

19 THE COURT: Mrs. Nall, thank you very much for
20 your perseverance through your illness. I am not excusing
21 you as a juror because there's a possibility one of the 12
22 jurors can become sick during the course of the
23 deliberations. So you are released to go home this evening;
24 but you can't talk to anyone, just as my earlier
25 instructions applied, about this case until you have heard

1 on the news that there is a verdict. If there's -- if you
2 hear on the news there is no verdict, then, of course, you
3 need to continue to not discuss anything with anyone.

4 Thank you for your patience, your perseverance. I
5 saw how, you know, several days how you sat here very, very
6 patiently. You paid attention to the evidence even though
7 you were not feeling well. There's not much I can do for
8 you other than give you a little certificate of thanks from
9 the Court. Thank you very much and you are released.

10 (Ms. Nall leaves the courtroom.)

11 THE COURT: Any questions from counsel?

12 MR. HINSON: No, sir.

13 MR. BROWN: Judge, I just wanted to be clear on
14 the Court's instruction to Ms. Nall. If she's likely to be
15 called back, I have some concerns about her waiting to hear
16 anything on the news.

17 THE COURT: Well, that's the only way she knows --
18 I guess we could call her.

19 MR. BROWN: I would prefer if there's any
20 probability she would have to be recalled that the Court
21 remind her of the previous instructions that she refrain
22 from considering -- from listening to the news until she's
23 either fully released by the Court.

24 THE COURT: Well, there's no evidence. The only
25 thing that the news will be reporting -- they could report

1 argument again, I guess. Could you grab her? She's gone
2 out the door? I was thinking because all the evidence is
3 in.

4 MR. BROWN: Hopefully, she won't have to be
5 recalled. If she is, Your Honor, I would prefer not to have
6 a problem.

7 (Mrs. Nall returns to courtroom).

8 THE COURT: Ms. Nall, I apologize. After you
9 left, counsel suggested to me, and I think it's very
10 prudent, that you actually should continue not follow the
11 media in any way. So what will happen is we will have
12 someone from the Court call you, Ms. Cochran or someone else
13 in the clerk of court's office, when there is a verdict.

14 JUROR NALL: Okay.

15 THE COURT: So until you get a message from the
16 Court, just avoid the media.

17 JUROR NALL: All right.

18 THE COURT: Thank you very much, ma'am.

19 Ms. Cochran has now delivered the indictment, the
20 instructions and the two verdict forms. Can we be in
21 recess? Anything from counsel?

22 MR. BROWN: Nothing from the government, Your
23 Honor.

24 THE COURT: All right. We will be in recess in
25 this case until we hear from the verdict of the jurors. I

1 have another hearing at 4:30, 15 minutes, in here.

2 So if counsel can just step away from their desk,
3 but I think you could leave the things on your desk.

4 (Court in recess pending word from the jury.)

5 THE COURT: All right. Very quickly and the
6 defendants actually don't need to be in here but I'm glad
7 they are.

8 Let me read to you to the request of the jurors.
9 I think it's very straight forward. "We need at least an
10 electronic copy of 23-page document and the 35-page
11 document. If this is not possible, we need 11 more paper
12 copies for each jury." It says "jury" but I think they are
13 mean juror. 23-page document we presuming is the Bill of
14 Indictment. The 35-page document is the jury instructions.
15 Does everybody agree?

16 MR. BROWN: Yes, sir.

17 MR. HINSON: Yes, sir.

18 MS. PARROTT: Yes, sir.

19 THE COURT: The 35 are electronically on the JERS
20 system, so they have access to that. We just need --
21 Ms. Cochran has to give them access; hit the right button in
22 here so they have access to it in the jury room.

23 The 23-page reacted Indictment is not on JERS yet,
24 but Mrs. Magee has scanned it in back in our chambers and
25 has e-mailed it to Ms. Cochran, so it will be added to the

1 JERS system. And it will be made available electronically
2 also. Any questions on that?

3 MR. BROWN: No, sir.

4 THE COURT: Any objections to that?

5 MR. TATE: No, sir.

6 MR. HINSON: No, sir.

7 MR. BROWN: No, sir.

8 MR. HINSON: Just to be clear about this, our
9 clients didn't get a chance to get anything to eat at lunch
10 time. Can they go down the street to --

11 THE COURT: Sure. Absolutely. That's absolutely
12 fine with the Court.

13 MR. HINSON: We can waive their being here for
14 further questions.

15 THE COURT: I anticipate questions, and as long as
16 you do not believe they need to be here for questions.

17 MR. HINSON: I think we can pass --

18 MR. TATE: If she's here; if she's not here we
19 would waive her appearance here in court.

20 THE COURT: That's fine. All right. Thank you.
21 We'll be in recess for five minutes.

22 (Recess taken in Jinwright case pending return of
23 a verdict.)

24 (Thereupon, the Court heard motions in a different
25 case.)

1 (Jury question at 5:54 p.m.)

2 THE COURT: We have two routine questions.

3 The first one is, "We need to have a copy of the
4 government's closing arguments. None of the jurors took
5 enough notes to remember all the points made."

6 That one is easy: The answer is no.

7 Now, we have a third question.

8 The second question is, "We need to have a
9 ten-minute break for fresh air (smoke break.)"

10 We'll just give them the instruction that they
11 determine their own breaks. They just need to read the last
12 page of the instruction.

13 Now we finally have a request. Third question:
14 "We need the management letter from Legacy 17A and 17B."
15 17A and 17B. Is that the right exhibit numbers?

16 MR. BROWN: Yes, sir.

17 THE COURT: Any objection to 17A and 17B going
18 back to the jury?

19 MR. TATE: No objection.

20 MR. HINSON: No objection.

21 THE COURT: All right. Mrs. Cochran, if you could
22 give them electronic access to 17A and 17B. And then if you
23 could go back there and tell them they can take a break.
24 They just need to read the last page of the instructions so
25 they know not to deliberate while they are on a break.

1 Any questions for the Court? All right. We'll be
2 in recess. Thank you.

3 (Court in recess pending the jury verdict.)

4 (Jury question at 7:08 p.m.)

5 THE COURT: All right. We have a jury request for
6 documents. The request is, it says, "We need documents that
7 list 60.1, 60.2, 60.3, 60.4, 60.5, 60.6, 60.7, 6.8, 60.9 and
8 61." Any questions about that? I believe that's Revenue
9 Agent Polk's charts and 61 is her revenue agent report. Do
10 the parties agree those are requested documents?

11 MR. TATE: Yes.

12 MR. BROWN: Yes.

13 THE COURT: Oh, Ms. Cochran reminded me, 60.7 was
14 never admitted. It's a duplicate.

15 MR. BROWN: That was just a duplicate, Your Honor,
16 that's correct.

17 THE COURT: They requested it so they will not get
18 60.7 since it wasn't admitted.

19 So any problem with Ms. Cochran giving the jurors
20 electronic access to those documents except for 60.7?

21 MR. TATE: No objection.

22 MR. HINSON: No objection.

23 MR. BROWN: No, sir.

24 THE COURT: Then it will be done. We'll await
25 word from the jury.

1 (Recess pending the jury's verdict.)

2 (Jury verdict at 8:10 p.m.)

3 THE COURT: All right. It's my understanding from
4 the clerk of court we have a verdict.

5 Before we bring the jurors into the courtroom, I
6 want to ask that the court security officers, once everyone
7 is in, the Marshal Service closes the courtroom so that
8 there's no more entry or exit after the jurors come in.

9 When the verdict is read, I ask that no one show
10 any emotions. Everyone remain silent. We are in a
11 courtroom. Whenever there's a reading of a verdict, it is a
12 very emotional time, but we still have to pay respect to the
13 courtroom and recognize the importance of maintaining our
14 decorum through the process.

15 Also, after the verdict is read, I will excuse the
16 jurors. I'll give them a short thank you for their jury
17 service. As you all said during your arguments today, they
18 were very attentive and very patient through the last four
19 weeks. They will be excused, of course, through the jury
20 room, and I'm going to order the Marshal Service and the
21 court security officers to keep this courtroom closed and no
22 one will exist this courtroom until the jurors are outside
23 the building and escorted to their vehicles.

24 Ms. Blackmon, do you have those certificates?

25 MR. BLACKWOOD: They are on their seats.

1 THE COURT: Anything before we bring the jurors
2 in?

3 MR. BROWN: No.

4 MR. HINSON: No, sir.

5 MR. TATE: No, sir.

6 (Jury enters courtroom at 8:14 p.m.)

7 THE COURT: Mr. Foreperson, I understand you've
8 reached a verdict.

9 THE FOREPERSON: We have.

10 THE COURT: Was the verdict unanimous?

11 THE FOREPERSON: It was.

12 THE COURT: Would you please hand up the two
13 verdict sheets to the clerk of the court.

14 (Hands document to clerk.)

15 THE COURT: I ask the clerk of court to please
16 publish the verdict.

17 THE CLERK: Ladies and gentlemen of the jury:

18 In the matter of United States of America v.
19 Anthony L. Jinwright, case No. 3:09CR67-1, you returned the
20 following verdict:

21 As to the charge in Count One in the Bill of
22 Indictment, do you find the defendant, Anthony L.
23 Jinwright, guilty.

24 As to the charge in Count Two of the Bill of
25 Indictment, do you find the defendant, Anthony L. Jinwright,

1 guilty.

2 As to the charge in Count Three of the Bill of
3 Indictment, do you find the defendant, Anthony L. Jinwright,
4 guilty.

5 As to the jury in Count Four of the Bill of
6 Indictment, do you find the defendant, Anthony L. Jinwright,
7 guilty.

8 As to the charge in Count Five of the Bill of
9 Indictment, do you find the defendant, Anthony L. Jinwright,
10 guilty.

11 As to the charge in Count Six of the Bill of
12 Indictment, do you find the defendant, Anthony L. Jinwright,
13 guilty.

14 As to the charge in Count Seven of the Bill of
15 Indictment, do you find the defendant, Anthony L. Jinwright
16 guilty.

17 As to the charge in Count Eight of the Bill of
18 Indictment, do you find the defendant, Anthony L. Jinwright,
19 guilty.

20 As to the charge in Count Nine of the Bill of
21 Indictment, do you find the defendant, Anthony L. Jinwright,
22 guilty.

23 As to the charge in Count Ten of the Bill of
24 Indictment, do you find defendant, Anthony L. Jinwright,
25 guilty.

1 As to charge Eleven in the Bill of Indictment, do
2 you find the defendant, Anthony L. Jinwright, guilty.

3 As to charge Twelve of the Bill of Indictment, do
4 you find the defendant, Anthony L. Jinwright, guilty.

5 As to charge Thirteen in the Bill of Indictment,
6 do you find the defendant, Anthony L. Jinwright, guilty.

7 As to Count Fifteen in the Bill of Indictment, do
8 you find the defendant, Anthony L. Jinwright, not guilty.

9 As to Count Sixteen in the Bill of Indictment, do
10 you find, Anthony L. Jinwright, not guilty.

11 As to the charge in Count Seventeen of the Bill of
12 Indictment, do you find the defendant, Anthony L. Jinwright,
13 not guilty.

14 As to the charge in Count Eighteen of the Bill of
15 Indictment, do you find the defendant, Anthony L. Jinwright,
16 not guilty.

17 As to the charge in Count Nineteen of the Bill of
18 Indictment, do you find defendant, Anthony L. Jinwright, not
19 guilty.

20 So say you all the 3rd day of May, signed by the
21 foreperson.

22 In the matter of United States of America v.
23 Harriett P. Jinwright, docket number 3:09CR67-2, you
24 returned the following verdict:

25 As to the charge in Count One of the Bill of

1 Indictment, do you find the defendant, Harriet P. Jinwright,
2 guilty.

3 As to the charge in Count Two of the Bill of
4 Indictment, do you find defendant, Harriet P. Jinwright, not
5 guilty.

6 As to the charge in Count Three of the Bill of
7 Indictment, do you find defendant, Harriet P. Jinwright, not
8 guilty.

9 As to the charge in Count Four of the Bill of
10 Indictment, do you find the defendant, Harriet P. Jinwright,
11 not guilty.

12 As to the charge in Count Five of the Bill of
13 Indictment, do you find the defendant, Harriet P. Jinwright,
14 guilty.

15 As to the charge in Count Six of the Bill of
16 Indictment, do you find the defendant, Harriet P. Jinwright,
17 guilty.

18 As to the charge in Count Seven of the Bill of
19 Indictment, do you find the defendant, Harriet P. P.
20 Jinwright, guilty.

21 As to the charge in Count Eight of the Bill of
22 Indictment, do you find the defendant, Harriet P. Jinwright,
23 not guilty.

24 As to the charge in Count Nine of the Bill of
25 Indictment, do you find the defendant, Harriet P. Jinwright,

1 not guilty.

2 As to the charge in Count Ten of the Bill of
3 Indictment, do you find the defendant, Harriet P. Jinwright,
4 not guilty.

5 As to the charge in Count Eleven of the Bill of
6 Indictment, do you find Harriet P. Jinwright, not guilty.

7 As to the charge in Count Twelve of the Bill of
8 Indictment, do you find the defendant, Harriet P. Jinwright,
9 not guilty.

10 As to charge in Count Thirteen of the Bill of
11 Indictment, do you find the defendant, Harriet P. Jinwright,
12 not guilty.

13 So say you all the 3rd day of May, signed by the
14 foreperson.

15 THE COURT: Would the defense like the jurors
16 polled?

17 MR. HINSON: Yes.

18 MR. TATE: Please.

19 THE COURT: I ask the clerk of court to poll the
20 jurors.

21 THE CLERK: Ladies and gentlemen of the jury, you
22 heard the verdict as published.

23 Juror No. 1: Were those your verdicts? Are those
24 still your verdicts?

25 JUROR 1: Yes.

1 THE CLERK: Juror No. 2: Were those your
2 verdicts? Are those still your verdicts?

3 JUROR NO. 2: Yes.

4 THE CLERK: Juror No. 3: Were those your
5 verdicts? Are those still your verdicts?

6 JUROR NO. 3: Yes.

7 THE CLERK: Juror No. 4: Were those your
8 verdicts? Are those still your verdicts?

9 JUROR NO. 4: Yes.

10 THE CLERK: Juror No. 5: Were those your
11 verdicts? Are those still your verdicts?

12 JUROR NO. 5: Yes, they are.

13 THE CLERK: Juror No. 6: Were those your
14 verdicts? Are those still your verdicts?

15 JUROR NO. 6: Yes.

16 THE CLERK: Juror No. 7: Were those your
17 verdicts? Are those still your verdicts?

18 JUROR NO. 7: Yes.

19 THE CLERK: Juror No. 8: Were those your
20 verdicts? Are those still your verdicts?

21 JUROR NO. 8: Yes.

22 THE CLERK: Juror No. 9: Were those your
23 verdicts? Are those still your verdicts?

24 JUROR NO. 9: Yes.

25 THE CLERK: Juror No. 10: Were those your

1 verdicts? Are those still your verdicts?

2 JUROR NO. 10: Yes.

3 THE CLERK: Juror No. 11: Were those your
4 verdicts? Are those still your verdicts?

5 JUROR NO. 11: Yes.

6 THE CLERK: Juror No. 12: Were those your
7 verdicts? Are those still your verdicts?

8 JUROR NO. 12: Yes.

9 THE CLERK: Thank you.

10 THE COURT: Ladies and gentlemen of the jury, it's
11 been a long four weeks. You have been very patient. You
12 have been very deliberate. You have been very attentive.

13 My duty as judge was to preside over the
14 presentation of evidence and allow you the opportunity to
15 hear the evidence and to observe and to look at the
16 documents and make a decision, and the decision you needed
17 to agree on had to be unanimous.

18 As a judge I never comment on the verdict. I
19 shouldn't comment on the verdict because that's not my job.
20 Your job, though, is to tell us unanimously the truth of
21 this matter and you have.

22 I think you understand how hard it is to be a
23 juror. I think the last several hours have been extremely
24 stressful for you, but you have done your duty. And as a
25 judicial officer and a representative in the Western

1 District of North Carolina I thank you for doing that.

2 Now, you have a small certificate thanking you for
3 your jury service. It's the least we can do. We've taken
4 you from your family and friends, from your employment for
5 the last four weeks.

6 You now are released from your jury service. You
7 have the right, if you choose, to talk to your family or
8 friends, to talk to counsel, to talk to the agents. You
9 might be contacted by the media. It's entirely up to you if
10 you want to talk to anyone. But it is your right.

11 You're now released and you can talk about what
12 affected you the most in this trial, what you found
13 convincing, what you found unconvincing. But I ask you one
14 really important thing: I ask you if you talk to your
15 family, friends, counsel or the media, that you talk about
16 your thoughts, your deliberations, what convinced you, what
17 you found unconvincing. Do not, I ask you, talk about what
18 your fellow jurors said. One of the great things about our
19 system is the jury room is a private, secret room where you
20 come together to share your thoughts about what is important
21 in this case.

22 So you can share your reflections but I ask you
23 not to pass on what some other juror said. That's that
24 juror's right if he or she would like to share their
25 thoughts.

1 So you are now excused for your jury service. I
2 thank you very, very much.

3 You will escorted to your vehicles. If you just
4 go through the jury room, collect your personal effects.
5 U. S. Marshal Service, court security officers will take you
6 to your vehicles so you can go home this evening.

7 Thank you and good evening.

8 (Jury leaves courtroom at 8:24 p.m.)

9 THE COURT: All right. Bishop Jinwright and
10 Pastor Jinwright, please rise.

11 Bishop and Pastor, you both have been convicted by
12 a jury of your peers of numerous counts of tax evasion and
13 conspiracy, and also in the case of the Bishop Jinwright,
14 falsifying returns. As you are aware, these are very
15 serious felony convictions.

16 The next step in this process will be the
17 preparation of a Presentence Report by the United States
18 probation officer. The probation officer will contact your
19 counsel to set up meetings with you so you will be
20 interviewed about your personal affairs, your family history
21 and other matters that are used to put together a
22 Presentence Report. That process takes several months.

23 At the end of that process, part of the
24 Presentence Report will include a calculation under the
25 U. S. Sentencing Guidelines as to the appropriate sentencing

1 range which this Court must analyze in determining the
2 appropriate sentence it ultimately hands down based on these
3 convictions.

4 That sentence or sentencing range as proposed in
5 the Presentence Report is just an advisory range. This
6 Court is not bound by that advisory range but it's a very
7 critical first step in determining the sentence in each of
8 your cases.

9 Because it's a critical first step, you and your
10 counsel will have the right to object to those, the
11 presentence calculations. After you filed your objections,
12 the U. S. Government will have the opportunity to respond to
13 your objections. If the Probation Office accepts your
14 objections, then there will be no pending objections before
15 this Court. But if the Probation Office rejects your
16 objections, then they -- you will have the opportunity to
17 argue those objections before this Court at your sentencing
18 hearing.

19 I estimate it will be three to six months, maybe
20 longer, before we have your sentencing hearing.

21 Now, do you have any questions for me as to the
22 next step in this process? Either one of you?

23 DEFENDANT BISHOP JINWRIGHT: No, sir.

24 DEFENDANT PASTOR JINWRIGHT: No, sir.

25 THE COURT: Any questions from counsel?

1 MR. TATE: Not at this time.

2 MR. HINSON: No, sir, not at this time.

3 THE CLERK: What's the United States position on
4 bond?

5 MR. BROWN: The government would request that
6 Mr. Jinwright be taken into custody. We believe, at least
7 based on the information the our disposal, that he is still
8 in violation of the conditions of his bond.

9 We believe that on the basis of the evidence in
10 this courtroom, he faces a lengthy period of incarceration,
11 and while Mrs. -- we're not asking for detention for
12 Mrs. Jinwright. We do so primarily because we understand
13 based on information she provided to the Court that she
14 doesn't have the financial wherewithal to flee. Also, quite
15 candidly, we think it is less likely that she would flee if
16 her husband is incarcerated.

17 Based on the evidence in this courtroom, we
18 believe that Mr. Jinwright is engaged in obstructive
19 conduct. We think his testimony, which the Court heard as
20 well as the jury, speaks volumes about his willingness to
21 comply with any order of this Court. For those reasons, we
22 believe detention is appropriate.

23 THE COURT: Pastor Jinwright, would you please sit
24 down.

25 Mr. Hinson, the government would request that the

1 court to take your client into custody. What's your
2 position on that?

3 MR. HINSON: Your Honor, we're, of course, are
4 opposed to that.

5 He's been here throughout the trial. He's come
6 here every day. We would suggest there's no indication
7 whatsoever of him being a flight risk.

8 As I represented to the Court before, he's been
9 engaged in activities to try to be in a position to pay the
10 considerable taxes that the jury has found that he owes, and
11 it would seem to us that it would be a burden to the
12 taxpayers, number one, to put him in jail because the
13 taxpayers would have to start paying for his upkeep.

14 Number two, it would deprive him of the
15 opportunity to work on the business matters that have to be
16 worked on to try to enhance his opportunity to make a
17 substantial reduction in these taxes.

18 You know, Your Honor, we think that the question
19 of whether or not he could pay these taxes or pay a
20 substantial part of these taxes by the time of sentencing
21 could be relevant on the issue of sentencing, and to put him
22 in jail would impair his ability to try to address that
23 issue.

24 You know, it seems to us that there are
25 alternatives to actually putting him in jail. You know, one

1 would be to have some kind of electronic monitoring, to
2 restrict to the degree that the government is concerned
3 about a flight risk, certainly there are measures that could
4 be taken short of imprisoning him that would address those
5 concerns.

6 THE COURT: Thank you, Mr. Hinson.

7 First as to the issue of his ability to repay
8 taxes that he presumptively will be held accountable for
9 because of the jury's verdict, I believe recently the Fourth
10 Circuit said in a published opinion that allowing a
11 defendant to have either a reduced sentence or to be at
12 liberty so that he or she can repay taxes for which they
13 have been found guilty of criminal evasion is really not a
14 proper factor in the calculation of a defendant's liberty.

15 More importantly, while I do agree with you, I do
16 not believe the defendant is a risk of flight. From the
17 evidence at this trial, I'm concerned about the economic
18 risk to public safety and the community by allowing the
19 defendant to remain on bond.

20 The evidence was quite clear, and apparently the
21 jury was convinced beyond a reasonable doubt and this
22 Court's standard for detention is much lower than that, that
23 defendant was part of a conspiracy to not only evade taxes
24 and impede the lawful operation of the Internal Revenue
25 Service, but did that partly through manipulating the

1 financial operations of his church. And that is a very
2 important factor this Court is concerned about with regard
3 to his liberty. And because of that, the Court does believe
4 he is a risk to the economic safety of the community, and
5 the Court is going to order the U. S. Marshal Service to
6 take him into custody this evening for purposes of the
7 presentence detention since he's now been convicted of 13
8 counts of federal felonies.

9 Anything else from counsel?

10 MR. HINSON: Not at this time.

11 THE COURT: Anything else from the United States?

12 MR. BROWN: No, Your Honor. Thank you.

13 THE COURT: Mr. Tate and Ms. Parrot? I ask --

14 (Audience reacts.)

15 THE MARSHAL: Come back together. Don't lose it.
16 Just relax. Keep it down so he can continue with court.

17 THE COURT: Thank you.

18 With the defendant being taken into the custody of
19 the U. S. Marshal Service, nothing else from counsel, we'll
20 be in recess.

21 (Court recessed 8:32 p.m.)

22 - - - - -

Date _____